

FLORIDA DEPARTMENT OF LAW ENFORCEMENT INTERNAL INVESTIGATION REPORT

CASE NUMBER: EI-79-1370

DATE: August 22, 2008

CASE AGENT: Inspector Joseph Demma

REPORT PREPARED BY: Inspector Joseph Demma

DATES COVERED FROM: July 28, 2008 **TO:** August 22, 2008

CASE SUBJECT: Sandra F. Veiga
Government Analyst II
MROC/Professionalism/ATP
Miami, Florida

ALLEGATION(S): Violation of Law or Rules [F.A.C. 11I-1.011 (2)]; to
Wit: FDLE Policy 3.33(5); Values and Ethics

Unbecoming Conduct [F.A.C. 11I-1.011 (1)]

I. INVESTIGATIVE PREDICATE

On July 28, 2008, Inspector Joseph Demma received for review this noted internal investigation. The incident involves alleged statements made by Government Analyst (GA) Veiga to several members of the Miami-Dade Police Department and one member of the Miami Beach Police Department. GA Veiga's alleged statements involve the preemption of testing of evidentiary DUI instruments (Intoxilyzer 8000 machines), by intentionally turning off the power to the DUI instrument when it is apparent that the machine is going to fail required tests. The alleged statements further noted that there is no record created unless the test is completed thus requiring no documentation of the event.

II. DOCUMENTS

- 1) An FDLE Internal Inquiry Form (IIF) dated July 28, 2008, prepared by Program Manager (PM) Laura D. Barfield. In the IIF, PM Barfield noted that on July 24, 2008, she had received a telephone call from Officer Kevin Millan (Miami Beach PD) regarding a conversation Officer Millan had with GA Veiga on July 22, 2008, at the Miami Regional Operations Center. Officer Millan informed GA Veiga that he had documented a loss of power during an Agency inspection and that the instrument was in compliance up until the point that the power was lost. Officer Millan then informed PM Barfield that GA Veiga stated that he didn't need to document the occurrence because no one would ever know, and that she (Veiga) turns off the power to evidentiary instruments when the results are out of compliance with required administrative regulations (FAC). GA Veiga further stated to Officer Millan that she had just recently turned off power to a Miami-Dade PD evidentiary breath test instrument that she (Veiga) was inspecting because the 0.20g/210L test results were running high.

PM Barfield noted that on the evening of July 24, 2008, she had received a telephone call from Officer Kimberly Velazquez (Miami-Dade PD). Officer Velazquez stated that she had inquired of Officer Pablo Espinosa and Officer Lazaro Ley regarding Intoxilizer number 80-000883. Officer Velazquez relayed that Officer Ley stated that when he picked up the instrument from GA Veiga, he remembered her (Veiga) stating that she had to turn off the instrument because it was not going to pass the 0.20 solution tests. Officer Espinosa stated that while GA Veiga was at the Miami-Dade PD, she mentioned to him (Espinosa) that he could turn off the instrument if it was not going to comply with inspection requirements.

During the telephone call on July 24, 2008, PM Barfield noted that Officer Velazquez informed her that the only inspection performed by GA Veiga without Officer Velazquez or Officer Espinosa being present was for instrument #80-000883. This is how the instrument in question was identified.

- 2) An original Memorandum prepared by Officer Kimberly Velazquez (Miami-Dade PD) on July 25, 2008.
- 3) An original Memorandum prepared by Public Service Aide (PSA) Pablo Espinoza (Miami-Dade PD) on July 25, 2008.
- 4) An original Memorandum prepared by Public Service Aide (PSA) Lazaro Ley (Miami-Dade PD) on July 25, 2008.
- 5) A copy of a Memorandum prepared by Officer Kevin Millan (Miami Beach PD) on July 26, 2008.
- 6) An original Memorandum from the FDLE Commissioner to GA II Sandra Veiga placing her on Administrative Leave During Investigation. The memorandum was dated July 28, 2008.
- 7) An original Memorandum prepared by Inspector Joseph Demma to GA II Sandra Veiga notifying her of the Internal Investigation. The memorandum was dated July 28, 2008.

- 8) A copy of a Memorandum prepared by PM Laura D. Barfield to Director Michael D. Crews regarding FDLE member Sandra F. Veiga. The memorandum was dated July 25, 2008.
- 9) A copy of Department Inspection Reports -Intoxilyzer 8000 prepared by Sandra F. Veiga on June 18, 2008 and October 10, 2007. These reports were furnished by PM Laura Barfield.
- 10) A copy of a FDLE Letter prepared by PM Laura Barfield and sent to Sergeant Jon Harris (Miami-Dade PD) in regards to Intoxilyzer 8000; Serial number 80-000883. The letter was dated July 29, 2008.

Note: The above mentioned documents will be maintained in the case file and should be reviewed if additional information is needed.

III. INVESTIGATIVE NARRATIVE

In furtherance of this investigation, Inspector Joseph Demma conducted taped interviews (sworn) with the following individuals. Below are notations from those interviews.

Kevin Millan, Police Officer (Miami Beach PD); DUI Coordinator

Location: Miami-Dade PD (Special Patrol Bureau), Miami, FL

Date: August 05, 2008

- Officer Millan stated that he is the DUI Coordinator and Agency Inspector for the Miami Beach Police Department.
- Officer Millan stated that he is familiar with the Florida Administrative Code (FAC) concerning Intoxilyzer 8000 instruments; specifically noted as Chapter 11D rules of the Code.
- Officer Millan stated that he has a copy of his prepared memorandum in regards to this incident.
- Officer Millan stated that on Tuesday, July 22, 2008, he went to FDLE – MROC, Office of Sandra Veiga (GA), in order to have two of Miami Beach PD's instruments (Intoxilyzer 8000) receive their annual Department (FDLE) inspection. Department inspections were performed by GA Veiga.
- Officer Millan stated that there were two other instruments present to receive their annual Department inspection, however they were from other agencies.

- Officer Millan stated that he remained in the office while GA Veiga conducted the inspections on all four instruments.
- Officer Millan stated that while he was in the office with GA Veiga, they discussed various issues going on with the testing program and also about an issue that he (Millan) was experiencing with one of his instruments having excessive purge-fails.
- Officer Millan stated that GA Veiga brought up an inspection that Officer Millan had done in June 2008. Officer Millan stated that during the inspection the power chord had become disconnected and that he (Millan) had to restart the test. Officer Millan further stated that he noted the occurrence on the inspection form as per policy and procedures. GA Veiga stated to Officer Millan that the next time that occurs there is no need to document the occurrence as there is no record of the first inspection ever occurring.
- Officer Millan stated that GA Veiga told him that when power is lost during an inspection it wipes out the memory of that inspection.
- Officer Millan stated that GA Veiga told him that she recently had an incident with a Miami-Dade PD instrument when the .20 solution was reading too high (higher than standards allow). This incident occurred during an annual inspection. Officer Millan further stated that GA Veiga told him that she turned off the instrument to terminate the inspection prior to its completion in order to not have a failure. GA Veiga also told Officer Millan that no one would know by doing that.
- Officer Millan stated that GA Veiga reiterated that once the power is off there is no memory of the inspection and that you do not have to worry about documenting the occurrence.
- Officer Millan stated that what GA Veiga had told him was not consistent with the Florida Administrative Code and Department Policy.
- Officer Millan stated that FAC-11D rules state that if an inspection fails for any reason it must be documented. Officer Millan also stated that a second inspection can be run, however it must be properly documented on Form 40 (Agency Inspection Report). Failures and corrective action should be noted in the remarks section of the report and also in the Department Inspector Field Notes report.
- Officer Millan stated that as the DUI Coordinator for the Miami Beach PD he adheres to, and follows Florida Administrative Code-11D rules regarding all of Miami Beach's Intoxilyzer instruments.
- Officer Millan stated that on a routine basis his agency/city receives public records requests concerning the information contained in inspection reports regarding the Intoxilyzer instruments.
- Officer Millan stated that the lack of information being documented on Inspection reports would severely compromise the entire program and testing process. Officer Millan also

stated that it would make it impossible to prosecute these types of cases and that the defense community would view the situation as a grave omission and take away from the integrity of the program.

- Officer Millan stated that the situation would cause a severe doubt in his mind about administering a test to a defendant.
- Officer Millan stated that he is not aware of any Miami Beach cases affected by this situation with FDLE. Officer Millan also stated that his (Miami Beach) instruments were never left alone with GA Veiga and that he witnessed and was present for all inspections of Miami Beach instruments.
- Officer Millan stated that just the instruments were brought to MROC for inspection.
- Officer Millan, referring to his prepared memorandum (July 26, 2008), confirmed the statement GA Veiga made to him (Millan) on July 22, 2008. That statement reads as follows: "Ms Veiga stated that she recently terminated an inspection on a Miami-Dade Police Department instrument by turning it off, because the .20 solution was reading high and the instrument was not going to pass the inspection."
- Officer Millan, referring to his prepared memorandum (July 26, 2008), confirmed the statement GA Veiga made to him (Millan) on July 22, 2008. That statement reads as follows: "I was requested to keep this information "between us". Officer Millan further stated that his interpretation of "between us" was that the information regarding the Miami-Dade PD instrument not be disclosed to anyone outside of the room they were in.
- Officer Millan stated that he was alarmed by the information GA Viega had told him about the Miami-Dade PD instrument. Officer Millan further stated that he contacted Officer Kimberly Velazquez, Agency Inspector (Miami-Dade PD) and informed her of what GA Veiga had told him about one of Miami-Dade's instruments. At that time however Officer Millan did not know the number of the instrument or the date the inspection occurred.
- Officer Millan stated that he recalls no other similar statements made by GA Veiga regarding an improper inspection of an instrument or one that violates FAC rules.
- Officer Millan stated that he also contacted Program Manager Laura Barfield (FDLE – Tallahassee) informing her of this incident. Officer Millan further stated that he also notified his chain of command and prepared a written memorandum regarding this incident.

Kimberly Velazquez, Police Officer Miami-Dade County Police Department

Location: Miami-Dade PD (Special Patrol Bureau); Miami, Florida

Date: August 05, 2008

- Officer Velazquez stated that she has been with the Miami-Dade PD for approximately 21 ½ years and has been an Agency Inspector for Intoxilyzer instruments since 1994.
- Officer Velazquez stated that the Miami-Dade PD has 12 Intoxilyzer instruments.
- Officer Velazquez stated that she is aware of and adheres to the Florida Administrative Code (FAC) in regards to Intoxilyzer testing.
- Officer Velazquez stated that Sandra Veiga (GA) is the Department (FDLE) Inspector for the Intoxilyzer instruments and that she has known GA Veiga for approximately 2 years.
- Officer Velazquez stated that she prepared a memorandum on July 25, 2008, in regards to this incident.
- Officer Velazquez stated that on July 22, 2008, she was contacted by Officer Kevin Millan (Miami Beach PD) in regards to a conversation he (Millan) had with GA Veiga, Department Inspector (FDLE), during a Department inspection on July 22, 2008. Officer Velazquez stated further that Officer Millan told her that GA Veiga told Officer Millan to turn off an instrument in order to void out an inspection that was failing and that she (Veiga) had recently done that to a Miami-Dade PD instrument. Officer Millan believed that this information was important for her (Velazquez) to know.
- Officer Velazquez stated that she immediately knew which instrument it was due to the fact that it was the only one that had been out of their (Miami-Dade personnel) sight during an actual inspection by GA Veiga.
- Officer Velazquez stated that she called Public Service Aide (PSA) Pablo Espinoza (Agency Inspector) to see if he had any information in regards to this situation. Officer Velazquez further stated that PSA Espinoza did not have any information about this incident.
- Officer Velazquez stated that PSA Espinoza informed her of a statement that GA Veiga made to him (Espinoza) earlier in June (2008). GA Veiga told PSA Espinoza that you can turn off the instrument, turn it back on, and it would void out the inspection and leave no record. GA Veiga also told PSA Espinoza that if the instrument was not passing no one would know and you can just start the test over again.
- Officer Velazquez stated that that PSA Espinoza researched the situation further and noted that when he went to pick up the instrument (#80-000883) at FDLE it was not passing the inspection and therefore he could not pick it up on June 18, 2008.

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- Officer Velazquez stated that on June 19, 2008, PSA Lazaro Ley was asked to pick up the instrument (#80-000883) at FDLE. PSA Ley and GA Veiga had a conversation where GA Veiga informed PSA Ley that she had a problem with the instrument passing so she (Veiga) turned it off and back on and started over again.
- Officer Velazquez stated that PSA Ley, who is a Breath Test Operator (BTO), did not think anything of the GA Veiga's statement until asked at a later date.
- Officer Velazquez stated that she then called to Laura Barfield (FDLE – Tallahassee) to inform her of the situation as there was now an issue of possible complications with court records.
- Officer Velazquez stated that she was asked to take the instrument "off line", which was done.
- Officer Velazquez stated that an Agency inspection was done on the instrument in question. Officer Velazquez further stated that memorandums were prepared and sent to Laura Barfield.
- Officer Velazquez stated that the Miami-Dade PD instrument was identified as #80-000883.
- Officer Velazquez stated that she did not hear GA Veiga make any of the noted statements, however she was informed of the alleged statements through Officer Millan, PSA Espinoza and PSA Ley.
- Officer Velazquez confirmed that other than the individuals previously identified and spoken to individually, there were no other witnesses regarding this incident.
- Officer Velazquez stated that if you are running a test you can have a high reading and the instrument will tell you that it was not in compliance, do you wish to repeat the test. You are allowed to repeat the test.
- Officer Velazquez stated that PSA Espinoza and PSA Ley were told that GA Veiga shut off the instrument and started the test over again because it was not going to pass.
- Officer Velazquez stated that on June 18, 2008, when PSA Espinoza called to tell her (Velazquez) that GA Veiga told him that the .20 solution was reading high and the instrument (#80-000883) was not ready for pick up. Officer Velazquez further stated that if that's a problem she (Velazquez) had no problem boxing it up and shipping it back to the repair facility where it just came from. PSA Espinoza stated that GA Veiga informed him, no it is going to be fine.
- Officer Velazquez stated that she was aware that if you turned off or the instrument lost power during testing you would lose that entire inspection and there would be no record of it.

- Officer Velazquez stated that FAC rules would require appropriate documentation when incidents such as a loss of power occur. Officer Velazquez further stated that we are not trying to hide anything.
- Officer Velazquez stated that the Department (FDLE) inspection in question occurred on June 18, 2008. Officer Velazquez further stated that an Agency inspection was conducted on June 19, 2008, and the instrument (#80-000883) passed and was put back "on line."
- Officer Velazquez stated that after a conversation with Laura Barfield it was decided to take the instrument "off-line" again as a precautionary measure and send it to Enforcement Electronics to have it checked. This was done on July 24, 2008.
- Officer Velazquez stated that FDLE keeps the records of inspections on line. Officer Velazquez confirmed that these documents regarding DUI testing are viewed and used in court by attorneys, prosecutors and judges.
- Officer Velazquez stated that the instrument (#80-000883) passed its Department (FDLE) inspection on June 18, 2008. That inspection was performed by GA Sandra Veiga.
- Officer Velazquez stated that the instrument passed its Agency (Miami-Dade PD) inspection on June 19, 2008. That inspection was performed by PSA Espinoza.
- Officer Velazquez stated that her supervisor (Sergeant Jon Harris) had received a memorandum from Laura Barfield (FDLE), dated July 29, 2008. The memorandum was in regards to the Intoxilyzer 8000, serial number 80-000883 (Miami-Dade PD instrument) and acknowledged the issue at hand and that the matter is under review by FDLE (Office of Executive Investigations).
- Officer Velazquez confirmed that she has had personal conversations with Officer Millan, PSA Espinoza and PSA Ley in regards to this matter, which confirmed the information contained in their submitted memorandums.
- Officer Velazquez confirmed that she has not either personally heard or become aware of any other statements made by GA Veiga regarding a possible violation of FAC rules or the improper testing of an Intoxilyzer instrument.
- Officer Velazquez stated that the time noted by GA Veiga on the June 18, 2008, inspection form was 16:50, however PSA Espinoza noted that he spoke with GA Veiga on the telephone at around 4:45PM on June 18, 2008, and that she (Veiga) informed him that the instrument was not ready and that she was having problems with the .20 solution. GA Veiga's inspection report for the June 18, 2008, Department inspection report noted that the instrument (80-000883) was in compliance with FAC rules. Officer Velazquez further stated that the .20 test is one of the last tests performed on this instrument.

Pablo Espinoza, Public Service Aide (PSA), Miami-Dade Police Department

Location: Miami-Dade PD (Special Patrol Bureau); Miami, Florida

Date: August 5, 2008

- PSA Espinoza stated that he has been employed with Miami-Dade for 21 years and has been in his current assignment since 1994. PSA Espinoza is the one of the Agency inspectors for the Intoxilyzer 8000 Series. Miami-Dade PD takes care of 11 machines.
- PSA Espinoza confirmed that as an Agency inspector he has a general knowledge of FAC rules regarding the inspection process for the Intoxilyzer instrument.
- PSA Espinoza stated that Officer Velazquez called him at his home regarding an incident with a Miami-Dade PD Intoxilyzer instrument being shut off during a Department inspection.
- PSA Espinoza stated that he was scheduled to pick up the Intoxilyzer (#80-000883) from FDLE and he either called Sandra (Veiga) or Sandra called him regarding the machine. PSA Espinoza stated that Sandra told him that the machine was not ready as she was having a problem with the "20 solution" and the instrument was not passing.
- PSA Espinoza stated that the "20 Solution" was either out of range or that there was an issue with the actual solution being utilized. PSA Espinoza further stated that when you have this type of problem you are allowed to redo the test one time.
- PSA Espinoza stated that his telephone conversation with Sandra regarding the problems with the solution occurred on June 18, 2008, before 5:00PM (approximately 4:45-4:50PM).
- PSA Espinoza stated that Sandra (Veiga) told him you can avoid any issues with the maintenance of the Intoxilyzer by just shutting off the instrument which would wipe out anything you had done and then just restart the machine and inspection. PSA Espinoza further stated that this sounded kind of weird coming from Sandra and that she had never said that before to him. PSA Espinoza later informed Officer Velazquez of this information.
- PSA Espinoza stated that the Intoxilyzer has a computer memory and if you turn off the instrument before the inspection is complete that wipes out the current information and does not record that inspection.
- PSA Espinoza stated that the conversation with Sandra regarding turning off the Intoxilyzer occurred on June 04, 2008.
- PSA Espinoza stated that Intoxilyzer #80-000883 was dropped off at FDLE on June 18, 2008 by PSA Ley, and was subsequently picked up from FDLE on June 19, 2008 by PSA Ley.

- PSA Espinoza stated that PSA Ley told him that Sandra (Veiga) stated to him (Ley) that she (Veiga) had to shut the machine off during the inspection as it was not going to pass inspection. This conversation occurred on June 19, 2008, when PSA Ley responded to FDLE to pick up Intoxilizer (#80-000883).
- PSA Espinoza stated the inspection is required by Florida Administrative Code rules prior to it being put back online after repairs.
- PSA Espinoza stated that he conducted an inspection on the Intoxilyzer (#80-000883) when it came back from FDLE on June 19, 2008, and the machine passed the inspection.
- PSA Espinoza stated that this information regarding the problems with the Intoxilyzer (#80-000883) will have to be disclosed for court purposes.

Lazaro Ley, Public Service Aide (PSA), Miami-Dade Police Department

Location: Miami-Dade Police Department (Special Patrol Bureau); Miami, Florida

Date: August 5, 2008

- PSA Ley stated that he has been employed with Miami-Dade for 15 years and has been in his current assignment for nine years.
- PSA Ley stated that he has known Sandra Veiga (FDLE) for approximately one year.
- PSA Ley stated that PSA Espinoza asked him to drop off the Intoxilyzer (#80-000883) to FDLE for a state (Department) inspection to be conducted.
- PSA Ley stated that he met with Sandra to pick up the Intoxilyzer after the inspection at FDLE was performed. PSA Ley further stated that while on the way to her office, Sandra stated she had problems with the instrument passing the inspection and had to turn it off so it would not fail the inspection. Sandra further told PSA Ley that she did another inspection and it passed.
- PSA Ley stated that this meeting with Sandra occurred on June 19, 2008, at MROC. The conversation pertains to the Intoxilyzer 80-000883.

Sandra F. Veiga, Government Analyst II – FDLE (MROC/Professionalism/ATP)

Location: FDLE - Miami Regional Operations Center (MROC); Miami, Florida

Date: August 06, 2008

- GA Veiga stated that she is the Department Inspector (Intoxilyzer 8000) for the Miami Region of the FDLE, a position she has held for 2 years.
- GA Veiga confirmed that prior to this interview starting she was furnished and reviewed a copy of the Internal Interview Form (IIF) prepared by Laura Barfield in regards to this case.
- GA Veiga confirmed that she knows PSA Pablo Espinoza (Agency Inspector - Miami-Dade PD).
- GA Veiga answered "no" to the question of whether it was an accurate statement that she told PSA Espinoza to shut off the Intoxilyzer to void an inspection and to just restart it.
- GA Veiga answered "no" to the question of whether she told PSA Espinoza to void an inspection on the Intoxilyzer 8000.
- GA Veiga answered "no" to the question of whether she made any similar statements, in any vein close to that, to PSA Espinoza regarding the voiding of an inspection Intoxilyzer test.
- GA Veiga stated that she had prepared the inspection report of June 18, 2008 in regards to Miami-Dade PD Intoxilyzer (#80-000883).
- GA Veiga answered "not exactly" to the question as to whether she made a comment to PSA Espinoza that she (Veiga) was having problems with the .20 solution and that the instrument (80-000883) was not ready for pick up. GA Veiga further stated that she did tell PSA Espinoza that the instrument was not ready for pick up because of other factors.
- GA Veiga stated she had completed three inspections on June 18, 2008, including instrument #80-000883, and they all passed. GA Veiga further stated that she began the inspections after lunch on that day (June 18).
- GA Veiga stated that on June 18, 2008, she experienced bad weather (raining) and two power surges which delayed her inspection. GA Veiga further stated that these power surges occurred before the inspection and not during.
- GA Veiga stated that prior to conducting inspections you have to let the instruments and simulators warm up, and when you lose power you have to start over again.
- GA Veiga stated that she had called PSA Espinoza and informed him that the inspection would not be complete by 5:00PM due to the previously noted weather conditions. GA

Veiga further stated that this telephone conversation with PSA Espinoza occurred late in the day and that she had stayed later than 5:00PM (June 18). {PSA Espinoza noted that his telephone conversation with GA Veiga occurred at approximately 4:45PM.}

- GA Veiga stated that during a check of her simulators, GA Veiga discovered a problem with one of them that was leaking .20 solution. GA Veiga further stated that PSA Espinoza may have misunderstood what she had told him.
- GA Veiga stated that the simulator in question had an air leak and that she (Veiga) had to switch it and start over with another simulator and have that one warm up and wait another 30-40 minutes.
- GA Veiga stated "no" to the question, if she stopped/shut off an inspection/test (in progress) due to an air leak in one of the simulators.
- GA Veiga stated that she determined the existence of an air leak in one of the simulators prior to the control test on (#80-000883) being started.
- GA Veiga stated that she met PSA Lazaro Ley a few times, however does not deal with him much.
- GA Veiga stated "I never said that, I would never say that". GA Veiga's statement was in response to a statement made by PSA Ley, that on June 19, 2008, he (Ley) met with GA Veiga to pick up an Intoxilyzer instrument. The meeting took place on the elevator at FDLE. PSA Ley alleged that GA Veiga told him that she was having a problem with the Intoxilyzer instrument (80-000883) during the inspection and had to shut it off to prevent it from failing.
- GA Veiga stated "I only did one inspection, which is the one that I submitted." GA Veiga's statement was in response to a statement made by PSA Ley that on June 19, 2008, GA Veiga told him that she had to redo the inspection and at this time the intoxilyzer passed.
- GA Veiga stated that she knows Officer Kevin Millan (Miami Beach PD). GA Veiga further stated that Officer Millan is one of the Agency inspectors for the Miami Beach PD and that she deals with him fairly often.
- GA Veiga acknowledged that on July 22, 2008, Officer Millan responded to FDLE (MROC) and met with her (Veiga) in regards to Department (FDLE) inspections on several instruments.
- GA Veiga stated that during this meeting with Officer Millan they had a discussion regarding some breath tests on a particular instrument, not related to the ones being currently inspected, and reviewed some purge-fails situations and how best to address them.

- GA Veiga stated "no" when asked if she made the following noted statement to Officer Millan on July 22, 2008. [Referring to a previous incident involving an Agency inspection performed by Officer Millan where he documented the loss of power (power chord became disconnected)]. Officer Millan's statement alleges that GA Veiga told Officer Millan not to worry about documenting a test in the future where power is lost during the test as there is no memory of it ever taking place, you can just do the test over without anyone ever knowing.
- GA Veiga stated that she was the one who brought this previous incident up to Officer Millan. GA Veiga further stated that what she told Officer Millan was that with a loss of power situation where the test does not complete there is no record of that test contained within the instrument. Also, an event that is not recorded in the instrument but noted on a form as a disconnected power cord, etc., may cause a problem with attorneys in court.
- GA Veiga stated that if he (Millan) was going to document a preempted test, notations may have to be more specific to avoid defense questions.
- GA Veiga stated that "I never said that." GA Veiga's statement was in response to a statement made by Officer Millan that she (Veiga) told him that she recently terminated an inspection on a Miami-Dade PD instrument by turning it off because the .20 solution was reading high and the instrument was not going to pass inspection.
- GA Veiga stated "no" in response to a statement made by Officer Millan that she (Veiga) requested to him (Millan) to keep this information "between us."
- In response to a question of whether GA Veiga told Officer Millan not to document a test GA Veiga initially stated; "I don't recall saying that at all."
- When questioned further as to GA Veiga's previous statement that she did not tell Officer Millan to document a test, GA Veiga clarified her statement about not recalling and stated that "I did not say that," referring to shutting off a machine or having a problem with a Miami-Dade PD instrument and I shut that one off and it did not have a record. While this question was still being asked question GA Veiga also stated, "I wouldn't say that, of course not."
- GA Veiga stated that there was only one inspection done on that instrument (80-000883) and that was the one submitted (June 18, 2008). GA Veiga further stated that there was "no other inspection done or started and stopped."
- GA Veiga stated that she knows Officer Kimberly Velazquez (Miami-Dade PD) and that Officer Velazquez is the Agency inspector (Intoxilyzer 8000) for Miami-Dade PD.
- Officer Velazquez noted in her memorandum that on July 22, 2008, Officer Kevin Millan contacted her and stated that while he (Millan) was at the FDLE Office, GA Veiga told him that if there was a problem with an intoxilyzer passing an Agency inspection all he would have to do is turn the intoxilyzer off and start over as there would be no record of

the first inspection. When asked if these statements were accurate, GA Veiga stated "no."

- When questioned as to whether or not a record is created in the instrument when a test is terminated for any reason while that test is in progress, after a pause, GA Veiga first stated that "I don't believe so." When questioned further GA Veiga stated "not that I know of, I've never seen it happen." GA Veiga further stated that she only had that scenario happen to her once before and that is how she found out that sometimes there is no record.
- GA Veiga stated that she "never said that." GA Veiga's statement was in response to a statement made by PSA Espinoza to Officer Velazquez that GA Veiga stated to him (Espinoza) that if an inspection was not going to pass all you have to do is shut off the intoxilyzer and start over. This statement was alleged to have been made on June 04, 2008.
- GA Veiga stated that PSA Lazaro Ley dropped off the instrument (80-000883) at FDLE on June 18, 2008, however she did not see him.
- GA Veiga stated that she believes that Officer Millan misunderstood what she (Veiga) had said. GA Veiga further stated that her intentions were to let Officer Millan know that if he had to show proof in court nothing would be recorded and that could cause a problem for him (Millan) with a defense attorney.
- GA Veiga stated that on June 19, 2008, she might have told PSA Ley that she (Veiga) could not finish yesterday as she was having issues with the simulator (air leak) but did not tell him that to prevent the instrument from failing the inspection that she (Veiga) shut the instrument off.
- GA Veiga stated that she did tell PSA Espinoza on the telephone that the instrument would not be ready due to the fact that she had to start over again.
- GA Veiga stated that if you lost power during an inspection the correct procedure would be to document the event and start a new inspection. GA Veiga further stated that anything that happens during an inspection you are supposed to document.
- GA Veiga stated that she is aware that cases can be dismissed due to procedural inspection deficiencies.
- GA Veiga stated that for court purposes they are asked to produce the monthly (Agency Inspections) and the most recent annual (Department - FDLE) inspection. GA Veiga confirmed that these documents are scrutinized by the courts and defense attorneys involved in the case.
- GA Veiga stated that everything that is done on the instrument is always recorded, when you log in and do control tests.

- GA Veiga stated that on June 04, 2008, a Miami-Dade PD instrument failed an Agency inspection performed by PSA Espinoza. GA Veiga further stated that the occurrence was documented and the test repeated.
- GA Veiga stated "no" to the question of whether she experienced a problem with the .20 solution regarding instrument #80-000883 on June 18, 2008. GA Veiga further stated that she changed the simulator prior to starting this test.
- GA Veiga stated "yes" to the question of whether she followed all FDLE and/or FAC Rules in regards to the Miami-Dade PD instrument (#80-000883).

IV. CONCLUSIONS/RECOMMENDATION

Investigative conclusions and findings are based on interviews conducted and a review of departmental and other related documents.

Violation of Law or Rules [11I-1.011 (2)]; To Wit: FDLE Policy 3.33(5); Values and Ethics:

"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."

This internal investigation involved the agencies/personnel of the Miami-Dade PD and the Miami Beach PD in regards to the testing of their Intoxilyzer 8000 instruments by the regional FDLE Department Inspector, GA Sandra Veiga. It is also noted that the Intoxilyzer 8000 instruments are owned by the respective law enforcement agencies, however these instruments are subject to the regulation/inspection by the FDLE and GA Veiga (Department Inspector), as per Florida Administrative Code.

Credible testimony was received from three law enforcement witnesses regarding alleged statements made by GA Veiga involving the testing and/or preempted testing of Intoxilyzer 8000 instruments. These alleged statements were made at different times to each of the three noted witnesses.

It was determined that the alleged statements attributed to GA Veiga in regards to this investigation are well founded in testimony and evidence. The alleged statements by themselves reasonably created or caused the appearance of impropriety and might serve to undermine the public trust in the Department Inspector (GA Veiga) and the FDLE.

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