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OPR File #PR-1350-16-0029-D

Investigated by: Chief K. D. Phelps

Reviewed by: Director Leroy Smith

Date: 05/12/2016

2 Signatures
Redacted



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Office of Professional Responsibility

INVESTIGATIVE REPORT

Case Number: PR-1350-16-0029-D

SUBJECT: Tosha Autry
Director - Office of Human Resources (OHR)

COMPLAINANT: South Carolina Department of Public Safety (SCDPS)

INVESTIGATOR: Chief Kenneth D. Phelps
Office of Professional Responsibility (OPR)

ALLEGATION: Ms. Autry told the members of OHR that "they had to be liars to be in HR."

ALLEGATION: Ms. Autry used a poor choice of words and method of instruction while attempting to explain the importance of confidentiality to her staff during a staff meeting.

INVESTIGATIVE PREDICATE

On May 5, 2016, the Office of Professional Responsibility (OPR) was instructed to conduct an investigation into an allegation of improper conduct by Office of Human Resources (OHR) Director Tosha Autry. This allegation was first brought to the attention of the South Carolina Department of Public Safety (SCDPS) during the House Legislative Oversight Committee hearing in which it was alleged that Ms. Autry had a meeting in OHR where Ms. Autry allegedly told the members of her department "that they had to be liars to be in HR." It was also revealed during this House Legislative Oversight Committee hearing that there was audio recording of this alleged improper conduct. Due to the serious nature of the allegations that were made during this hearing, OPR focused its investigation strictly on the conduct that allegedly occurred during the OHR staff meeting. This case was assigned to Chief Kenneth Phelps for investigation.

INVESTIGATION

As part of this investigation, Chief Phelps reviewed the recorded House Legislative Oversight Committee hearing conducted on May 5, 2016, and reviewed the audio recording of a portion of



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an OHR staff meeting. Chief Phelps also reviewed copies of the Confidentiality Agreement executed by all OHR staff and a copy of the April 4, 2016 meeting agenda. The aforementioned materials revealed the following:

Legislative Oversight Committee hearing on May 5, 2016.

The pertinent portion of the hearing was transcribed as follows:

Representative Edward Tallon: Have you ever had a meeting in your department where you've told the members of your department that they had to be liars to be in HR?

Ms. Autry: No.

Representative Edward Tallon: You've never said that?

Ms. Autry: That they have to be liars to be in HR? No.

Representative Edward Tallon: And that they had to tell lies, even little white lies to be in HR. Have you ever said that?

Ms. Autry: No. What I, hang on I can tell you what I told them.

(Representative Kirkman Finlay III interjects and SC Code §§ 2-2-100 and 2-2-110 were read.)

Representative Edward Tallon: You ever told in a staff meeting or told your employees that they had to be liars to be in HR and they had to tell lies even if they were little white lies, in order to keep from being brought up or sued or brought up in a deposition? Have you ever told your employees that?

Ms. Autry: No. I can tell you what I have told my employees. I have told them that they are bound by confidentiality laws, and that whatever they say, if it's confidential, they can be bound by those laws. And I've told them that, in HR, people will come up to them and ask them questions about terminations or anything that's going on in the agencies. And they can't tell them – they may know the answer to the question, but they cannot tell them because of confidentiality. And I think that statement was taken totally out of context. Whatever Mr. Tallon had said I have never told anyone to lie in HR.

*At this point, an audio recording was played and Ms. Autry acknowledged that it was her voice on the recording.



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Transcript of full audio recording provided by the Legislative Oversight Committee of portion of OHR staff meeting.

"If you work in HR, you become a liar. I'm telling you that right now. It's not a bad liar. But it's a, you, you will tell white lies because you know what's going on but you got to act like you don't know what's going on. Somebody got terminated, you knew they got terminated. Did you know so and so got terminated? I don't know what you're talking about. You just lied because you know that they got terminated but you can't tell them that they got terminated. So, because if not, again you're going to find yourself in a defamation lawsuit and you're going to, so¹ um anyway, welcome to HR! No I'm, I'm, telling you. You, you will have to do things like that because you don't want to violate confidentiality. Now, are all of ya'll liars? No. I don't want you to think that I'm calling everybody a liar or that you have to be a liar because you, you're not going to be liars or whatever. You just, you know, you got to act like you don't know things because if you do, people are going to try to pick you um, to get information. You got to be really, really strong um so that that doesn't happen. Because God forbid I'm telling you, you don't want to be sued. It lasts a long time. You got to do depositions and all kinds of stuff. So, you don't want that. So, **top goals in HR**. So I've already got off my soapbox now that's, that's all my expectations and all that we have to do in HR to be good employees and be successful and all that good stuff. Um, put it out there I've told you, um you know, I don't have a problem addressing issues that's the one thing" (The recording ended here) (Emphasis added)

Confidentiality Agreement

The SCDPS Confidentiality Agreement bears the SCDPS symbol and states the following:

I recognize that maintaining confidentiality is of critical importance in my role as an employee of the South Carolina Department of Public Safety ("SCDPS").

By signing this agreement, I represent that I will (1) maintain the confidentiality of all employee records and personally-identifying information contained therein; (2) keep confidential all written and oral communications to which I am privy; (3) never knowingly deliver any confidential data to any unauthorized person or entity; and (4) exercise due diligence and take reasonable precautions to keep any unauthorized person or entity from gaining access to the aforementioned content.

I understand that any violation of the Agreement may be cause for dismissal by SCDPS and legal action may be taken against me.

¹ It should be noted that it was at this juncture that the audio being played at the House Legislative Oversight Committee hearing was ended.



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[Spaces are provided beneath the foregoing text for the person to print and sign their name and date the document.]

Agenda for April 4, 2016, OHR staff meeting

The agenda showed that there were twenty two topics of discussion for the April 4, 2016, OHR meeting. Agenda items included "Awards/Promotions," "Training," "Professionalism/Dress Code/Behavior," and—most notably—"No Off the Record Conversation/Confidentiality Agreements," followed immediately thereafter by "Top Goals in HR."

INTERVIEW OF COMPLAINANT

The department is the complainant for purposes of this investigation.

INTERVIEW OF WITNESS

Patty W. Duggan, Benefits Manager, OHR

On May 5, 2016, Chief Phelps obtained a sworn statement from Ms. Duggan. The following is a synopsis of her statement which contains paraphrasing:

Ms. Duggan was given an opportunity to review a segment of a recording from an Office of Human Resources (OHR) staff meeting. Ms. Duggan stated that she had been present during that meeting, which occurred on April 4, 2016, and that much of the meeting had been geared towards some of the newer OHR staff members. Ms. Duggan indicated that Ms. Autry had been explaining "routine" procedures for the OHR and, towards the end of the meeting, the issue of confidentiality came up in regard to employee information. Ms. Duggan stated that she took Ms. Autry's comments to mean that OHR personnel were not allowed to disclose employee information to others, and OHR employees could advise unauthorized requestors that they did not have certain information. Ms. Duggan maintained that she did not take Ms. Autry's comments as a directive to lie to others but that she believed Ms. Autry meant that, if "put on the spot" with questions about the terms of employees' separation status, OHR personnel could feign ignorance in order to keep employee information confidential.

Ms. Duggan stated that Ms. Autry did not appear to be directing this example toward any specific employee, but was instead expressing the importance of confidentiality to OHR



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personnel. Ms. Duggan stated that she had never been given any directive by Ms. Autry to lie or to do anything unethical, and she had never observed any similar directive to be given to any other staff member of the OHR. (A copy of the agenda from the April 4, 2016, OHR staff meeting was shown to Patty Duggan, and she acknowledged that the agenda item "No Off the Record Conversation/Confidentiality Agreements" was the topic being discussed on the secretly recorded audio of Ms. Autry. (A copy of the agenda for the April 4, 2016, OHR staff meeting signed by Ms. Duggan is attached as an exhibit to this report. OPR also confirmed that Ms. Duggan was the most tenured employee in OHR. Ms. Duggan began her employment with state government on July 17, 1978, and she has been employed by SCDPS since its inception in 1993.)

Angela A. Thornton, Payroll Supervisor, Office of Human Resources

On May 6, 2016, Chief Phelps obtained a sworn statement from Ms. Thornton. The following is a synopsis of her statement which contains paraphrasing:

Ms. Thornton was given an opportunity to review a segment of a recording from an Office of Human Resources (OHR) staff meeting. While Ms. Thornton could not recall the exact date of this meeting, she acknowledged that she had been present at the time Ms. Autry made the comments that were heard on the recording. Ms. Thornton stated that she interpreted Ms. Autry's comments to mean that, while OHR personnel are privileged to a great deal of confidential information, SCDPS's confidentiality policy prohibited OHR personnel from disclosing this information to unauthorized persons. Ms. Thornton stated that she did not interpret Ms. Autry's comments as an indication that Ms. Thornton should "be a liar" in any way. Instead, Ms. Thornton stated that she construed the comments to mean that OHR personnel could deny knowledge of classified information in an effort to protect the confidential information of SCDPS employees. Ms. Thornton stated that she had never been directed by Ms. Autry to tell lies, and she was not aware of Ms. Autry giving such a directive to any other OHR employee. (A copy of the agenda from the April 4, 2016, OHR staff meeting was shown to Ms. Thornton, and she acknowledged that the agenda item "No Off the Record Conversation/Confidentiality Agreements" was the topic being discussed on the secretly recorded audio of Ms. Autry. A copy of the agenda for the April 4, 2016, OHR staff meeting signed by Ms. Thornton is attached as an exhibit to this report.)

Monika K. Taras-Michalski, Employee Relations Specialist, Office of Human Resources

On May 6, 2016, Chief Phelps obtained a sworn statement from Ms. Taras-Michalski. The following is a synopsis of her statement which contains paraphrasing:

Ms. Taras-Michalski was given an opportunity to review a segment of a recording from an Office of Human Resources (OHR) staff meeting. While Ms. Taras-Michalski could not recall



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the exact date of this meeting, she acknowledged that she had been present at the time that Ms. Autry made the comments that were heard on the recording. According to Ms. Taras-Michalski, she interpreted Ms. Autry's comments during the meeting to mean that OHR personnel are privileged to a great deal of confidential information, and SCDPS's confidentiality policy prohibited OHR personnel from disclosing this information to unauthorized persons. Ms. Taras-Michalski indicated that she had never been given any directive to lie by Ms. Autry. (A copy of the agenda from the April 4, 2016, OHR staff meeting was shown to Monika K. Taras-Michalski, and she acknowledged that the agenda item "No Off the Record Conversation/Confidentiality Agreements" was the topic being discussed on the secretly recorded audio of Ms. Autry. A copy of the agenda for the April 4, 2016, OHR staff meeting signed by Ms. Taras-Michalski is attached as an exhibit to this report.)

Tynisha Melvin-Lewis, Employment Specialist, Office of Human Resources

On May 6, 2016, Chief Phelps obtained a sworn statement from Ms. Lewis. The following is a synopsis of her statement which contains paraphrasing:

Ms. Melvin-Lewis stated that she had been present for a meeting on April 4, 2016, in which Ms. Autry addressed the issue of confidentiality regarding discussing SCDPS employee information. Ms. Melvin-Lewis stated that Ms. Autry gave an example that if someone asked a member of OHR if he or she knew why someone was terminated and the OHR member replied, "No, I don't," then they actually just lied because they would know. According to Ms. Melvin-Lewis, Ms. Autry told them that it may appear that OHR are liars but that was not their intention. Ms. Melvin-Lewis advised that she was aware of the importance of keeping confidentiality and not disclosing information. Ms. Melvin-Lewis stated that she had never been told that in order to be in OHR she had to be a liar. Ms. Melvin-Lewis stated that she felt that the comment that Ms. Autry made was "taken out of context" and by "no means" was Ms. Autry insinuating that to be a part of OHR you had to be a liar. (A copy of the agenda from the April 4, 2016, OHR staff meeting was shown to Ms. Melvin-Lewis, and she acknowledged that the agenda item "No Off the Record Conversation/Confidentiality Agreements" was the topic being discussed on the secretly recorded audio of Ms. Autry. A copy of the agenda for the April 4, 2016, OHR staff meeting signed by Ms. Melvin-Lewis is attached as an exhibit to this report.)

Sierrah L. Oates, Employee Relations Manager, OHR

On May 6, 2016, Chief Phelps obtained a sworn statement from Ms. Oates. The following is a synopsis of her statement which contains paraphrasing:

Ms. Oates was given an opportunity to review a segment of a recording from an Office of Human Resources (OHR) staff meeting. Ms. Oates recalled the segment and stated that she had been present during that staff meeting, which occurred on April 4, 2016. According to Ms. Oates,



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she believed Ms. Autry's comments indicated that she would have to tell lies as part of her position in OHR. Ms. Oates stated that this was contrary to the instructions that Ms. Autry had given her when she was hired by SCDPS in January 2016. According to Ms. Oates, Ms. Autry had given her specific instructions at that time to always be truthful during her employment at SCDPS by stating, "Make sure you don't lie, make sure you always tell the truth."

Ms. Oates acknowledged that keeping employee information confidential was extremely important and believed that Ms. Autry used a poor choice of words to convey this. Ms. Oates stated that, due to the way in which Ms. Autry worded her comments about OHR personnel having to tell lies, Ms. Oates believed that such a directive was inappropriate. However, Ms. Oates stated that she "didn't take it that way" and did not feel the need to report Ms. Autry's comments to any other superior within SCDPS.

Ms. Oates indicated that she heard that Ms. Autry had given a similar directive to lie at a previous OHR meeting approximately one year prior but, since Ms. Oates had only been employed at SCDPS for a few months, she did not have any firsthand knowledge of that particular incident. (A copy of the agenda from the April 4, 2016, OHR staff meeting was shown to Ms. Oates, and she acknowledged that the agenda item "No Off the Record Conversation/Confidentiality Agreements" was the topic being discussed on the secretly recorded audio of Ms. Autry. A copy of the agenda for the April 4, 2016, OHR staff meeting signed by Ms. Taras-Michalski is attached as an exhibit to this report.)

Shakwana K. Woodard, Employee Relations Specialist, OHR

On May 6, 2016, Chief Phelps obtained a sworn statement from Ms. Woodard. The following is a synopsis of her statement which contains paraphrasing:

Ms. Woodard was given an opportunity to review a segment of a recording from an Office of Human Resources (OHR) staff meeting. While Ms. Woodard could not recall the exact date of this meeting, she acknowledged that she had been present at the time Ms. Autry made the comments that were heard on the recording. According to Ms. Woodard, OHR personnel are privileged to confidential information and she took Ms. Autry's comments to mean that OHR personnel may sometimes "have to be willing" to feign ignorance in order keep SCDPS employee information confidential. Ms. Woodard stated that, from her viewpoint, Ms. Autry was not instructing OHR personnel to "be a liar" but was instead emphasizing the importance of protecting SCDPS employees' information and not disclosing confidential information. Ms. Woodard stated that Ms. Autry had never given her a directive to lie, and she was not aware of Ms. Autry giving a similar directive to any other OHR staff member. (A copy of the agenda from the April 4, 2016, OHR staff meeting was shown to Ms. Woodard, and she acknowledged that the agenda item "No Off the Record Conversation/Confidentiality Agreements" was the topic



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being discussed on the secretly recorded audio of Ms. Autry. A copy of the agenda for the April 4, 2016, OHR staff meeting signed by Ms. Woodard is attached as an exhibit to this report.)

Dimarcus A. Washington, Employee Relations Specialist, Office of Human Resources

On May 6, 2016, Chief Phelps obtained a sworn statement from Mr. Washington. The following is a synopsis of his statement which contains paraphrasing:

Mr. Washington was given an opportunity to review a segment of a recording from an Office of Human Resources (OHR) staff meeting. Mr. Washington acknowledged that he had been present at the time Ms. Autry made the comments that were heard on the recording, which he believed to have occurred at an OHR staff meeting on April 4, 2016. According to Mr. Washington, he did not interpret Ms. Autry's comments to mean that he would need to lie as part of his job duties within OHR. Mr. Washington explained that his job entails dealing specifically with personnel records and much of that information is required not to be disclosed to unauthorized persons. Mr. Washington stated that he took the comments to mean that he could deny knowledge of confidential information in an effort to protect the restricted information of SCDPS employees. Mr. Washington stated that he had not been instructed to lie by Ms. Autry, and he was not aware of Ms. Autry giving any similar directive to any other OHR employee. (A copy of the agenda from the April 4, 2016, OHR staff meeting was shown to Mr. Washington, and he acknowledged that the agenda item "No Off the Record Conversation/Confidentiality Agreements" was the topic being discussed on the secretly recorded audio of Ms. Autry. A copy of the agenda for the April 4, 2016, OHR staff meeting signed by Mr. Washington is attached as an exhibit to this report.)

Valerie E. Watts, Human Resources Manager, OHR

On May 6, 2016, Chief Phelps obtained a sworn statement from Ms. Watts. The following is a synopsis of her statement which contains paraphrasing:

Ms. Watts was given an opportunity to review a segment of a recording from an Office of Human Resources (OHR) staff meeting. Ms. Watts stated that she was not in attendance during this meeting but was under the impression that the recording was from an OHR staff meeting that occurred on April 4, 2016. After listening to the recording, Ms. Watts stated that she did not interpret Ms. Autry's comments to mean that OHR personnel should lie or be outright deceitful. Ms. Watts explained that it was her opinion that Ms. Autry may have "used the wrong words" to convey that OHR personnel could deny knowledge of confidential information in an effort to protect the confidential information of SCDPS employees. Ms. Watts stated that she had never been given any directive by Ms. Autry in the past to lie.



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Kayla Canty, OHR

On May 6, 2016, Chief Phelps obtained a sworn statement from Ms. Canty. The following is a synopsis of her statement which contains paraphrasing:

Ms. Canty was given an opportunity to review a segment of a recording from an Office of Human Resources (OHR) staff meeting. Ms. Canty stated that she had been present during that meeting, which occurred on April 4, 2016. Ms. Canty recalled Ms. Autry mentioning that sometimes you have to "kind of not tell the truth" in order to protect confidentiality. However, Ms. Canty stated that she did not interpret Ms. Autry's comments as an indication that Ms. Canty should "be a liar" in any way, but that she must maintain strict confidentiality. Ms. Cantey stated that she had never been directed by Ms. Autry to tell lies, and she was not aware of Ms. Autry giving such a directive to any other OHR employee. (A copy of the agenda from the April 4, 2016, OHR staff meeting was shown to Ms. Canty, and she acknowledged that the agenda item "No Off the Record Conversation/Confidentiality Agreements" was the topic being discussed on the secretly recorded audio of Ms. Autry. A copy of the agenda for the April 4, 2016, OHR staff meeting signed by Ms. Canty is attached as an exhibit to this report.)

Jordan Murphy, EEO Manager, OHR

On May 6, 2016, Chief Phelps obtained a sworn statement from Ms. Murphy. The following is a synopsis of her statement which contains paraphrasing:

Ms. Murphy acknowledged that on May 5, 2016, she watched the portion of the House Legislative Oversight Committee meeting that involved Ms. Autry and the recording from an OHR staff meeting on April 4, 2016, that she had attended. Ms. Murphy stated that in the staff meeting, the issue of confidentiality arose. Ms. Murphy stated that she had never been directed nor had she heard Ms. Autry tell anyone else that they had to "be a liar" to work in OHR and felt that Ms. Autry's statement had been "taken out of context." According to Ms. Murphy, she interpreted Ms. Autry's comments to mean that you have to "side step" any external inquiries in order to maintain confidentiality of privileged information. (A copy of the agenda from the April 4, 2016, OHR staff meeting was shown to Ms. Murphy, and she acknowledged that the agenda item "No Off the Record Conversation/Confidentiality Agreements" was the topic being discussed on the secretly recorded audio of Ms. Autry. A copy of the agenda for the April 4, 2016, OHR staff meeting signed by Ms. Murphy is attached as an exhibit to this report.)



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Caroline A. Jackson, Benefits Counselor, Office of Human Resources

On May 6, 2016, Chief Phelps obtained a sworn statement from Ms. Jackson. The following is a synopsis of her statement which contains paraphrasing:

Ms. Jackson stated that she had been present for a meeting on April 4, 2016, in which Ms. Autry addressed the issue of confidentiality regarding discussing SCDPS employee information. Ms. Jackson recalled Ms. Autry's comments during this meeting and did not believe that Ms. Autry was instructing or encouraging any OHR personnel to lie. According to Ms. Jackson, she heard Ms. Autry's comments firsthand at the meeting and interpreted them to mean that OHR personnel were prohibited from discussing SCDPS employee terminations, separations, or any other confidential information with unauthorized persons. Ms. Jackson acknowledged that "it should have been worded a little bit differently" but took the comments to mean that, in an effort to protect SCDPS employee information, OHR employees could advise unauthorized requestors that they did not have certain information. Ms. Jackson maintained that she did not perceive Ms. Autry's comments to mean that she would have to be a liar in order to work in OHR. (A copy of the agenda from the April 4, 2016, OHR staff meeting was shown to Ms. Jackson, and she acknowledged that the agenda item "No Off the Record Conversation/Confidentiality Agreements" was the topic being discussed on the secretly recorded audio of Ms. Autry. A copy of the agenda for the April 4, 2016, OHR staff meeting signed by Ms. Jackson is attached as an exhibit to this report.)

Jessica P. Bowers, Payroll Specialist, Office of Human Resources

On May 6, 2016, Chief Phelps obtained a sworn statement from Ms. Bowers. The following is a synopsis of her statement which contains paraphrasing:

Ms. Bowers was given an opportunity to review a segment of a recording from an Office of Human Resources (OHR) staff meeting. Ms. Bowers stated that she had been present during that meeting, which occurred on April 4, 2016, and recalled that Ms. Autry addressed the issue of discussing confidential SCDPS employee information. According to Ms. Bowers, she interpreted Ms. Autry to be conveying that OHR personnel could respond "I don't know" if they were asked about confidential SCDPS employee information by unauthorized requestors. Ms. Bowers acknowledged that OHR personnel are privileged to a great deal of confidential information, and SCDPS's confidentiality policy prohibited OHR personnel from disclosing this information to unauthorized persons. Ms. Bowers maintained that she had never heard Ms. Autry state that she would have to be a liar, or have to tell white lies, in order to work in OHR. (A copy of the agenda from the April 4, 2016, OHR staff meeting was shown to Ms. Bowers, and she acknowledged that the agenda item "No Off the Record Conversation/Confidentiality Agreements" was the topic being discussed on the secretly recorded audio of Ms. Autry. A copy



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of the agenda for the April 4, 2016, OHR staff meeting signed by Ms. Bowers is attached as an exhibit to this report.)

Patricia M. Truesdale, Class & Comp Specialist, OHR

- * On May 6, 2016, Chief Phelps obtained a sworn statement from Ms. Truesdale. The following is a synopsis of her statement which contains paraphrasing:

Ms. Truesdale was given an opportunity to review a segment of a recording from an Office of Human Resources (OHR) staff meeting. Ms. Truesdale stated that she had been present during that April 4, 2016, meeting and she recalled that Ms. Autry addressed the issue of discussing confidential SCDPS employee information. Ms. Truesdale acknowledged that OHR personnel are privileged to confidential information, and SCDPS's confidentiality policy prohibited OHR personnel from disclosing this information to unauthorized persons. According to Ms. Truesdale, she interpreted Ms. Autry to be conveying that OHR personnel could feign ignorance if they were asked about confidential SCDPS employee information by unauthorized requestors. Ms. Truesdale maintained that she had never heard Ms. Autry state that she would have to be a liar in order to work in OHR. Additionally, Ms. Truesdale stated that Ms. Autry had never directed her to do anything inappropriate or unethical, and Ms. Truesdale maintained that, if Ms. Autry would have ever given her such a directive, Ms. Truesdale would have reported it to SCDPS command staff. (A copy of the agenda from the April 4, 2016, OHR staff meeting was shown to Ms. Truesdale, and she acknowledged that the agenda item "No Off the Record Conversation/Confidentiality Agreements" was the topic being discussed on the secretly recorded audio of Ms. Autry. A copy of the agenda for the April 4, 2016, OHR staff meeting signed by Ms. Truesdale is attached as an exhibit to this report.)

Jena M. Thompson, Worksite Wellness and Recruitment Coordinator, OHR

On May 6, 2016, Chief Phelps obtained a sworn statement from Ms. Thompson. The following is a synopsis of her statement which contains paraphrasing:

Ms. Thompson stated that she was present for an OHR staff meeting on April 4, 2016, and she recalled that Ms. Autry addressed the issue of discussing confidential SCDPS employee information. Ms. Thompson stated that OHR personnel are privileged to confidential information, and SCDPS's confidentiality policy prohibits OHR personnel from disclosing this information to unauthorized persons. Ms. Thompson stated that she interpreted Ms. Autry's comments during that meeting to mean that, while OHR personnel "might know the answer" to questions that are asked by unauthorized persons, they should not disclose the information and could simply say that they did not know the answer. Ms. Thompson stated that, "I think that statement was taken out of context," and Ms. Thompson indicated that she did not interpret Ms.



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Autry's comments to mean that a person had to be a liar to work in OHR. (A copy of the agenda from the April 4, 2016, OHR staff meeting was shown to Ms. Thompson, and she acknowledged that the agenda item "No Off the Record Conversation/Confidentiality Agreements" was the topic being discussed on the secretly recorded audio of Ms. Autry. A copy of the agenda for the April 4, 2016, OHR staff meeting signed by Ms. Thompson is attached as an exhibit to this report.)

INTERVIEW OF SUBJECT

Tosha Autry – Office of Human Resources Director

The allegation that is being investigated centers around the audio recording of Ms. Autry's comments during the staff meeting on April 4, 2016. Out of an abundance of caution, OPR did not interview Ms. Autry as a part of its investigation due to the ongoing nature of the legislative oversight process and the possibility of further proceedings associated with her statement during the hearing.

CONCLUSION

On May 5, 2016, the South Carolina Department of Public Safety (SCDPS) became aware of an allegation that was publicly announced during a House Legislative Oversight Committee hearing where Representative Edward Tallon asked Office of Human Resources Director, Tosha Autry, if she had told the members of her department that "they had to be liars to be in HR," during a staff meeting. In addition, a secretly recorded audio was also played during this committee hearing in which Ms. Autry was addressing her staff regarding the importance of confidentiality.

OPR obtained a copy of the audio that was apparently recorded surreptitiously during an OHR staff meeting. Upon reviewing the entire audio recording, it became clear that the subject being discussed on this audio was "confidentiality." On the recording, Ms. Autry is heard giving an illustration of how to handle someone attempting to obtain confidential information from OHR staff by saying, "Somebody got terminated, you knew they got terminated. Did you know so and so got terminated? I don't know what you're talking about. You just lied because you know that they got terminated, but you can't tell them that they got terminated. So, because if not, again you're going to find yourself in a defamation lawsuit." Ms. Autry then states, "You will have to do things like that because you don't want to violate confidentiality." She continued on by letting her staff know that they could pretend to be ignorant if they had to in order to protect other employees' confidential information from individuals that did not have a legally-recognized right to know.



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During this investigation, OPR interviewed all staff members who currently work in OHR. The first staff member interviewed was Ms. Duggan, the most tenured employee of OHR and who has been with SCDPS since its inception—1993—and has been in state government since July 17, 1978. Ms. Duggan was given an opportunity to review a segment of a recording from an OHR staff meeting. Ms. Duggan stated that she had been present during that meeting, which occurred on April 4, 2016, and that much of the meeting had been geared towards some of the newer OHR staff members. Ms. Duggan indicated that Ms. Autry had been explaining “routine” procedures for OHR and, towards the end of the meeting, the issue of confidentiality came up in regard to employee information. Ms. Duggan stated that she took Ms. Autry’s comments to mean that OHR personnel were not allowed to disclose employee information to others and OHR employees could advise unauthorized requestors that they did not have certain information. Ms. Duggan maintained that she did not take Ms. Autry’s comments as a directive to lie to others but that she believed Ms. Autry meant that, if “put on the spot” with questions about the terms of employees’ separation status, OHR personnel could feign ignorance in order keep employee information confidential.

Ms. Duggan stated that Ms. Autry did not appear to be directing this example toward any specific employee, but was instead expressing the importance of confidentiality to OHR personnel. Ms. Duggan stated that she had never been given any directive by Ms. Autry to lie or to do anything unethical, and she had never observed any similar directive to be given to any other staff member of OHR.

According to Ms. Woodard, OHR personnel are privileged to confidential information, and she took Ms. Autry’s comments to mean that OHR personnel may sometimes “have to be willing” to feign ignorance in order to keep SCDPS employee information confidential. Ms. Woodard stated that, from her viewpoint, Ms. Autry was not instructing OHR personnel to “be a liar” but was instead emphasizing the importance of protecting SCDPS employees’ information and not disclosing confidential information. Ms. Woodard stated that Ms. Autry had never given her a directive to lie, and she was not aware of Ms. Autry giving a similar directive to any other OHR staff member.

Ms. Lewis stated that she also had been present for a meeting on April 4, 2016, in which Ms. Autry addressed the issue of confidentiality regarding discussing SCDPS employee information. Ms. Lewis stated that Ms. Autry gave an example that if someone asked a member of OHR do you know why someone was terminated and the OHR member replied, “No, I don’t,” then they actually just lied because they would know. According to Ms. Lewis, Ms. Autry told them that it may appear that OHR are liars but that was not their intention. Ms. Lewis advised that she was aware of the importance of keeping confidentiality and not disclosing information. Ms. Lewis stated that she had never been told that in order to be in OHR she had to be a liar. Ms. Lewis stated that she felt that the comment that Ms. Autry made was “taken out of context” and by “no means” was Ms. Autry insinuating that to be a part of OHR you had to be a liar.



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Office of Professional Responsibility

Ms. Watts stated that she was not in attendance during this meeting but was under the impression that the recording was from an OHR staff meeting that occurred on April 4, 2016. After listening to the recording, Ms. Watts stated that she did not interpret Ms. Autry's comments to mean that OHR personnel should lie or be outright deceitful. Ms. Watts explained that it was her opinion that Ms. Autry may have "used the wrong words" to convey that OHR personnel could deny knowledge of confidential information in an effort to protect the confidential information of SCDPS employees. Ms. Watts stated that she had never been given any directive by Ms. Autry in the past to lie.

Ms. Jackson stated that she also had been present for a meeting on April 4, 2016, in which Ms. Autry addressed the issue of confidentiality regarding discussing SCDPS employee information. Ms. Jackson recalled Ms. Autry's comments during this meeting and did not believe that Ms. Autry was instructing or encouraging any OHR personnel to lie. According to Ms. Jackson, she heard Ms. Autry's comments firsthand at the meeting and interpreted them to mean that OHR personnel were prohibited from discussing SCDPS employee terminations, separations, or any other confidential information with unauthorized persons. Ms. Jackson acknowledged that "it should have been worded a little bit differently" but took the comments to mean that, in an effort to protect SCDPS employee information, OHR employees could advise unauthorized requestors that they did not have certain information. Ms. Jackson maintained that she did not perceive Ms. Autry's comments to mean that she would have to be a liar in order to work in OHR.

In addition to interviewing staff members, OPR also obtained copies of the agenda that was prepared by Ms. Autry and was issued and signed by each employee who was present at the meeting. This document proved to be significant in establishing the context in which Ms. Autry's comments were made. The agenda showed that there were twenty two topics of discussion for the April 4, 2016, OHR meeting. Agenda items included "Awards/Promotions," "Training," "Professionalism/Dress Code/Behavior," and—most notably—"No Off the Record Conversation/Confidentiality Agreements," followed immediately thereafter by **"Top Goals in HR."** The appearance of "Confidentiality Agreements" on the agenda is consistent with the overall message conveyed by Ms. Autry in the full audio recording and with the obligations imposed on OHR staff reflected in the "Confidentiality Agreements" that they were all required to sign as part of their employment with the department. Isolating Ms. Autry's comments about "lies" or "liars" without acknowledging that confidentiality was the core subject matter being discussed fundamentally misrepresents the context in which these comments were made.

In summary, the evidence does not support a finding that Ms. Autry told her staff that they had to be liars to work in OHR. The allegation on its face indicates that lying is a prerequisite for employment with OHR or that employees are encouraged to lie. However, the investigation revealed that virtually all OHR employees who were in attendance at the meeting interpreted Ms. Autry's comments as simply giving instructions and illustrating how to maintain the



South Carolina Department of Public Safety

Office of Professional Responsibility

Autry's comments as simply giving instructions and illustrating how to maintain the confidentiality of information within OHR. At no time have any of the employees within OHR ever been instructed to tell lies or to do anything unethical by Ms. Autry. Moreover, the full audio recording revealed that Ms. Autry ultimately instructed her staff *not* to lie: "Now, are all of ya'll liars? No. I don't want you to think that I'm calling everybody a liar or that you have to be a liar because you, **you're not going to be liars** or whatever. You just, you know, you got to act like you don't know things because if you do, people are going to try to pick you um, to get information. You got to be really, really strong um so that that doesn't happen." These recorded comments confirmed that Ms. Autry was only emphasizing the importance of protecting confidentiality. Last, this investigation revealed that Ms. Autry should have used more appropriate wording and method of instruction when conveying to her staff the importance of confidentiality. During this investigation, however, OHR staff members made it clear that they understood that Ms. Autry was discussing "confidentiality agreements" during this meeting.

CLASSIFICATION

ALLEGATION:

Ms. Autry told the members of OHR that "they had to be liars to be in HR." - **UNFOUNDED**

ALLEGATION:

Ms. Autry used a poor choice of words and method of instruction while attempting to explain the importance of confidentiality to her staff during a staff meeting. - **SUSTAINED**



**SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY
OPR INVESTIGATION CLOSING FORM**

CASE FILE #PR-1350-16-0029-D**NAME: Tosha Autry-OHR Director**

Signature Redacted

Kenneth D. Phelps

Chief Signature

Redacted

05-09-2016

Date

Leroy Smith
Director05/12/2016
Date

Signature Redacted

Deputy Director/ Department Head

Sustained-Employee's action violated Department Policy, procedures or guidelines.
The above does not require justifications since disciplinary action should result.

05/12/2016
Date**REVIEWER: CHECK CONCLUSION & SUBMIT WRITTEN JUSTIFICATION FOR CLOSURE**

☐ **Not Sustained**-Insufficient evidence exists to either prove or disprove allegation.

☒ **Unfounded**-Alleged misconduct did not occur.

☐ **Exonerated**-Employee's action occurred as alleged, but was within policy and authorized by law.

Comments: DRC held on 05/12/2016. Action: Counseling for
allegation #2.

Comments: DRC CONDUCTED 5/12/2016. CONCUR WITH COMMITTEE'S

RECOMMENDATION

Signature Redacted

General Counsel QGC

Date

5/12/2016

FINAL ACTION: AUTHORITY TO CLOSE CASE

Signature Redacted

Kenneth D. Phelps
Chief

05-12-2016

Date

Signature Redacted

Leroy Smith
Director05/12/2016
Date



South Carolina Department of Public Safety

TO: Tosha L. Autry, Human Resources Director

FROM: Leroy Smith, Director

Signature
Redacted

RE: Counseling Session

DATE: May 12, 2016

SCDPS has conducted a review of an allegation that you instructed Office of Human Resources ("OHR") personnel that "they had to be liars to work in HR." This allegation has been classified as "Unfounded." However, the investigation concluded that you instructed OHR personnel on confidentiality requirements using an inartful choice of words and method of instruction.

Although you clearly intended to convey the importance of the subject matter, I wanted to take this opportunity to counsel you to be mindful of your word choice and method of instruction when communicating with your subordinates concerning the functions of your division and in all other official business.

My signature acknowledges that I received this document and its contents were discussed with me.

Employee Signature

Signature Redacted

Date

5/12/16

TABLE OF CONTENTS
OPR File #PR-1350-16-0029-D

- Exhibit 1....** Signed copies of Confidentiality Agreements from all OHR staff
- Exhibit 2....** Signed copies of April 4, 2016, meeting agenda
- Digital files.** All audio / video files are attached to rear cover page.



South Carolina Department of Public Safety

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I understand that any violation of this Agreement may be cause for dismissal by SCDPS and legal action being taken against me.

Shakwana Woodard

Printed Name

Signature Redacted

Signature

4/8/2014

Date

Witness:

Patty Duggan

Printed Name

Signature Redacted

Signature

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Sierrah L. Oates

Printed Name

Signature Redacted

Signature

Date

1/12/16

Witness:

Shakwana Woodward

Printed Name

Signature Redacted

Signature

RECEIVED

JAN 12 2016

Human Resources Office
D.P.S.

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I understand that any violation of this Agreement may be cause for dismissal by SCDPS and legal action being taken against me.

Dimitrios Washington
Printed Name

Signature Redacted

Signature

2/22/16
Date

Witness:

Shakwana Wardland
Printed Name

Signature Redacted

Signature

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I understand that any violation of this Agreement may be cause for dismissal by SCDPS and legal action being taken against me.

Valerie E Watts

Printed Name

Signature Redacted

Signature

Date

4/8/2014

Witness:

Tosha Autry

Printed Name

Signature Redacted

Signature

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I understand that any violation of this Agreement may be cause for dismissal by SCDPS and legal action being taken against me.

Patricia Truesdale

Printed Name

Signature Redacted

Signature

4-8-2014

Date

Witness:

Tosha Autry

Printed Name

Signature Redacted

Signature

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I understand that any violation of this Agreement may be cause for dismissal by SCDPS and legal action being taken against me.

Angela Allman
Printed Name
Signature Redacted
Signature
9/9/14
Date

Witness:

Patty Duggan
Printed Name
Signature Redacted
Signature

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I understand that any violation of this Agreement may be cause for dismissal by SCDPS and legal action being taken against me.

Monika Turas-Michalski

Printed Name

Signature Redacted

Signature

3-5-15

Date

Witness:

Shakwana Woodard

Printed Name

Signature Redacted

Signature

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Patty W. Dugan
Printed Name
Signature Redacted
Signature 8 88
4/8/2014
Date

Witness:

Anna Brown
Printed Name
Signature Redacted
Signature

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I understand that any violation of this Agreement may be cause for dismissal by SCDPS and legal action being taken against me.

Jordan Murphy
Printed Name
[Signature Redacted]
Signature
2/2/15
Date

Witness:
Yvonne Conley
Printed Name
[Signature Redacted] 2/2/15
Signature

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I understand that any violation of this Agreement may be cause for dismissal by SCDPS and legal action being taken against me.

Caroline Jackson

Printed Name

Signature Redacted

Signature

Date

1/13/2016

Witness:

Patty Duggan

Printed Name

Signature Redacted

Signature

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Jessica Bowers

Printed Name

Signature Redacted

Signature

1/13/16

Date

Witness:

Angela Thornton

Printed Name

Signature Redacted

Signature

RECEIVED

JAN 13 2016

Human Resources Office
D.P.S.

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Tosha Autry
Printed Name

Signature Redacted

Signature

Date

4/8/14

Witness:

Valerie Watts
Printed Name

Signature Redacted

Signature

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Tyrisha Lashawn Melvin-Lewis
Printed Name

Signature Redacted

Signature

5-9-16

Date

Witness:

Patty Duggan
Printed Name

Signature Redacted

Signature

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Tena H. Thompson
Printed Name

Signature Redacted

Signature

09-09-2015
Date

Witness:

Lauren Landis
Printed Name

Signature Redacted

Signature

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Kayla Canty
Printed Name
Signature Redacted
Signature
9.9.15
Date

Witness:

Tosha L. Autry
Printed Name
Signature Redacted
Signature

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Expectations - Know your job and do your job/Follow the rules/Have a good attitude/Provide good customer service

Lunch Hours /Work Hours

HR Calendar (Leave)

Flexible Work Schedule

Overtime

Coverage

Training

Computer/Cell Phone Usage – Social Media

Working/Staying Busy – No Loitering

Accountability/Know Your Jobs – Subject Matter Experts/Willingness to go above and beyond/Take pride in your work

Customers – Response (24 Hours) Emails/Phone Calls - Answer Phone at Desk/Treat People the Way You Want to Be Treated/Go Above and Beyond

Professionalism/Dress Code/Behavior

Pay Attention to Details

Communicate with Managers/Staff

Blindsiding/No Surprises

Pet Peeves "That's Not My Job," –Do everything in your power to assist others in the performance of their jobs.

Employment Verifications/Neutral reference

No Off the Record Conversation/Confidentiality Agreements

Top Goals in HR

Go Around Table

Signature Redacted

4/4/16

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Expectations - Know your job and do your job/Follow the rules/Have a good attitude/Provide good customer service

Lunch Hours /Work Hours

HR Calendar (Leave)

Flexible Work Schedule

Overtime

Coverage

Training

Computer/Cell Phone Usage – Social Media

Working/Staying Busy – No Loitering

Accountability/Know Your Jobs – Subject Matter Experts/Willingness to go above and beyond/Take pride in your work

Customers – Response (24 Hours) Emails/Phone Calls - Answer Phone at Desk/Treat People the Way You Want to Be Treated/Go Above and Beyond

Professionalism/Dress Code/Behavior

Pay Attention to Details

Communicate with Managers/Staff

Blindsiding/No Surprises

Pet Peeves "That's Not My Job," –Do everything in your power to assist others in the performance of their jobs.

Employment Verifications/Neutral reference

No Off the Record Conversation/Confidentiality Agreements

Top Goals in HR

Go Around Table

Signature Redacted

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048-16

Agenda:

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Go Around Table

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4.14.16

Agenda:

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Signature Redacted

4/6/16



South Carolina Department of Public Safety

TO: Tosha L. Autry, Human Resources Director

FROM: Leroy Smith, Director

Signature
Redacted

RE: Counseling Session

DATE: May 12, 2016

SCDPS has conducted a review of an allegation that you instructed Office of Human Resources ("OHR") personnel that "they had to be liars to work in HR." This allegation has been classified as "Unfounded." However, the investigation concluded that you instructed OHR personnel on confidentiality requirements using an inartful choice of words and method of instruction.

Although you clearly intended to convey the importance of the subject matter, I wanted to take this opportunity to counsel you to be mindful of your word choice and method of instruction when communicating with your subordinates concerning the functions of your division and in all other official business.

My signature acknowledges that I received this document and its contents were discussed with me.

Employee Signature

Signature Redacted

Date

5/12/16