

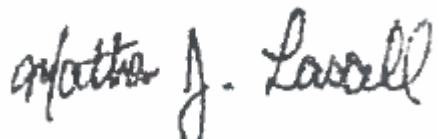
# OFFICE OF INSPECTOR GENERAL CITY OF JACKSONVILLE



## REPORT OF MANAGEMENT REVIEW

POLICIES AND PROCEDURES REGARDING  
JAXPORT EMPLOYEES

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MAY 2, 2022

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DATE ISSUED

*"Enhancing Public Trust in Government Through Independent and Responsible Oversight"*



## OFFICE OF INSPECTOR GENERAL CITY OF JACKSONVILLE

### MANAGEMENT REVIEW CASE NUMBER: 2022-0005

Matthew Lascell  
Inspector General

*"Enhancing Public Trust in Government Through Independent and Responsible Oversight"*

#### EXECUTIVE SUMMARY

In December of 2019, the Office of Inspector General (OIG) received an anonymous complaint regarding a questionable relationship between employees of JAXPORT. Investigation revealed that Sean Deverger (Deverger), now-former Mechanic II, Jacksonville Port Authority (JAXPORT) was in a relationship with a co-worker. The OIG also learned that in October of 2018, Deverger was arrested by Jacksonville Sheriff's Office (JSO) for driving under the influence of alcohol (DUI), and his commercial driver's license (CDL) was suspended. It was alleged that Deverger should have been terminated from JAXPORT for the DUI; however, he retained his JAXPORT employment, and continued to operate JAXPORT vehicles as a part of his job duties, while his CDL was suspended. Deverger was arrested for another DUI in November of 2018 while operating a vehicle with a suspended CDL. JAXPORT terminated Deverger on December 26, 2018, for violating the following JAXPORT General Standards of Conduct and Performance Rule(s): *Conduct unbecoming a JAXPORT employee, and Failure to maintain license/certificates.*

Based on this complaint, the OIG initiated a management review to address whether Deverger's October of 2018 DUI arrest was properly handled in accordance with JAXPORT Procedures and Guidelines.

This case was originally assigned to another investigator who is no longer with the OIG. Changes in personnel and policies within the OIG caused a delay in the completion of the management review.

#### BACKGROUND

JAXPORT is an independent City government agency located in Jacksonville, Florida.

Deverger was employed with JAXPORT from October 30, 2017, to December 26, 2018, and held the position of Mechanic II throughout his employment. Per the Mechanic II job description, he was responsible for operating all support vehicles and specialized equipment and required a valid driver's license throughout employment.

#### ISSUE REVIEWED AND FINDINGS

**Issue:**

*Whether Deverger's October of 2018 DUI arrest was properly handled in accordance with JAXPORT Procedures and Guidelines.*

**Governing Directives:**

JAXPORT Procedure and Guidelines: SOP 1101, Title: Discipline, Revision Date: June 1, 2016, and Revision Date: November 1, 2018

**RECORDS REVIEWED****Florida Department of Highway Safety and Motor Vehicles (FLHSMV) Records**

An OIG review of Deverger's FLHSMV records disclosed that his CDL was suspended for refusing to submit breath/urine/blood test, effective October 6, 2018, and November 11, 2018.

**Deverger's JAXPORT Personnel File**

An OIG review of Deverger's JAXPORT personnel file revealed the following relevant records:

**Notes to File**

11/26/18 Sean Deverger was incarcerated for charge of DUI.

12/14/18 HR contacted the Bureau of Administrative Review to find out if Sean would be able to obtain his CDL. He currently has a CDL permit that he obtained January 2018. The Bureau confirmed that a CDL will not be issued if their license has been suspended, revoked or cancelled.

Note: Deverger's notes to file did not contain any information related to his October 2018 DUI.

**Driver License Check**

The driver license check within Deverger's personnel file disclosed the following:

Driver License Check						
As of Nov 29, 2018, at 7:25 AM driver license number [REDACTED] is currently CANCELED, SUSPENDED, REVOKED, DISQUALIFIED, OR WITHDRAWAL. This is a result of the following infractions shown on your driving record. Please note that this is not an official driving record. For information on how to obtain an official driving record, contact the Florida Department of Highway Safety and Motor Vehicles.						
Suspensions, Revocations, Cancellations, Disqualifications						
Description	Effective Date	Type	County/State	Case Number	Status	
REFUSE SUBMIT BREATH/URINE/BLOOD TEST	10/6/2018	Suspension	DUVAL	-	EFFECTIVE	
REFUSE SUBMIT BREATH/URINE/BLOOD TEST	11/16/2018	Suspension	DUVAL	-	EFFECTIVE	

**Deverger's Termination Letter**

Deverger's termination letter, dated December 18, 2018, stated the following, verbatim in pertinent part:

*Effective December 26, 2018, your employment with the Jacksonville Port Authority is terminated for the following violation of The General Standards of Conduct and Performance as outlined in the Discipline Procedure, SOP 1101.*

**General Standards of Conduct and Performance Rule(s) Violated:**

4. *Conduct unbecoming a JAXPORT employee*
17. *Failure to maintain license/certificates*

Note: Deverger's termination letter did not contain any references related to his October 2018 DUI.

**JAXPORT Procedures and Guidelines**

The OIG reviewed *JAXPORT Procedures and Guidelines* and discovered that Deverger's relationship with his co-worker was not prohibited. Regarding the DUI arrests, *JAXPORT Procedures and Guidelines Procedure: SOP 1101 Title Discipline, Revision Date June 1, 2016, and Revision Date November 1, 2018*, did not reflect any language indicating that JAXPORT employees are required to report if they have been arrested outside of their JAXPORT duty hours.

**WITNESS TESTIMONY**

**Statement of Mike Becker, JAXPORT Training Manager**

Becker has been employed with JAXPORT since 1997 and held the position of Training Manager since approximately November of 2021. As Training Manager, his job duties include having full responsibility over the garage, cranes, personnel, and painters within the Blount Island Equipment Department. During calendar year 2018, Becker was the direct supervisor of Deverger, whose job duties included driving JAXPORT vehicles on a daily basis and maintaining a valid CDL in accordance with his job duties. Becker stated that Deverger drove JAXPORT vehicles between the months of October and November of 2018.

On an unknown date, Becker recalled that Deverger came to his office and informed him (Becker) that he (Deverger) was arrested for sleeping in his vehicle. Becker asked Deverger if he had been drinking and Deverger replied, "*No but I had a beer earlier.*" Becker asked Deverger whether he was combative with the police to cause the arrest, to which Deverger replied, "*No, I was just sleeping in my car.*" Becker could not recall whether Deverger specifically disclosed to him that he was arrested for a DUI. Becker stated that he did not ask to see Deverger's CDL, and he did not notify JAXPORT Human Resources Department (HR) of his aforementioned conversation with Deverger.

If Becker had been made aware of Deverger's DUI arrest, he would have asked to see Deverger's CDL, and would have contacted Valerie Witt (Witt), former Director of HR, JAXPORT, to confirm whether Deverger was authorized to drive a JAXPORT vehicle.

According to Becker, JAXPORT has a Standard Operating Procedure (SOP) that lists infractions. Becker stated he is the “*beginning part*” of the progressive discipline process, which consists of him completing a “*one minute form*” that details events which occurred. If the JAXPORT employee is still employed, then Becker will ask them a set of questions, similar to a fact-finding. Once completed, Becker provides the information to the JAXPORT Human Resources Department (HR).

**Statement of Kelly Harris, JAXPORT Human Resources Manager**

Harris has been employed with JAXPORT since approximately 2010 and has held the position of Human Resources Manager since approximately 2018. As the Human Resources Manager, her job duties include completing onboarding paperwork for newly hired JAXPORT employees, completing paperwork for terminated employees, processing Family and Medical Leave Act (FMLA), payroll, and managing the office.

Harris did not know if JAXPORT investigated Deverger’s October 6, 2018 driver’s license suspension, which was reflected on JAXPORT’s *Driver’s License Check* dated November 29, 2018. Harris stated it was possible that JAXPORT might not have known about Deverger’s October 6, 2018 suspension prior to JAXPORT’s *Driver’s License Check*. Based on her review of Deverger’s personnel file, she did not find any supporting documentation that reflected Deverger’s October 6, 2018 driver’s license suspension was investigated by JAXPORT.

**Statement of John Taylor, JAXPORT Human Resources Director**

Taylor has been employed with JAXPORT since April of 2019, and currently holds the position of Director of HR. As the Human Resources Manager, his job duties include oversight of JAXPORT policies and procedures and awareness of JAXPORT departmental operations. Taylor also conducts investigations into potential violations of JAXPORT policies and determined how the employee will be disciplined, up to and including terminations.

According to Taylor, JAXPORT has a progressive discipline SOP, *JAXPORT Procedures and Guidelines for Procedure: SOP 1101, Title Discipline, Responsibility: Human Resources, Revision Date: June 1, 2016*. According to Taylor, when policy violations occur, his role in the process is to determine whether he has all the required information to make the best decision regarding discipline and termination.

Based on his review of *JAXPORT Procedures and Guidelines for Procedure: SOP 1101, Title Discipline, Responsibility: Human Resources, Revision Date: June 1, 2016*, there is no language specific to JAXPORT employee arrests that occur outside of duty hours, and no language regarding what a JAXPORT employee is required to do if they had been arrested outside of their duty hours.

## ADDITIONAL INFORMATION

### **Additional Information – Issue 1**

During the course of the management review, the OIG found JAXPORT Managers retain files pertaining to minor employee infractions in a location separate from the JAXPORT HR employee personnel files.

### **Additional Information – Issue 2**

During the course of the management review, the OIG found JAXPORT HR employees do not document all HR-related consultations, such as meetings, telephone and/or conference calls.

#### **Finding:**

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The following issues and areas of improvement were identified:

- There are no JAXPORT Procedures and Guidelines requiring JAXPORT employees to report if they have been arrested outside their JAXPORT duty hours.
- There are no JAXPORT Procedures and Guidelines that reflect JAXPORT Managers are permitted to retain files of minor employee infractions, which were separate from the employee's personnel file in JAXPORT HR.
- There are no JAXPORT Procedures and Guidelines that requires JAXPORT HR to document HR-related consultations (meetings, telephone calls and/or conference calls).

## RECOMMENDED CORRECTIVE ACTIONS

The OIG recommends that JAXPORT:

1. Review *SOP 1101, Title: Discipline*, and consider updating *General Standards Of Conduct And Performance* section to require JAXPORT employees to report arrests outside of JAXPORT duty hours to their supervisor and or manager as soon as possible.
2. Require supervisors and managers to report the arrest to JAXPORT HR so that a fact-finding investigation can be conducted to determine whether any violations of JAXPORT policies have occurred and ascertain the overall health and safety of the impacted City Agency, Department, Division, or work unit.
3. Consider including in the above-mentioned policy a requirement that all supervisors and managers forward information regarding employee counseling discussions, coaching sessions, documentation, records, and notes to JAXPORT Human Resources to be retained in the employee's personnel file.
4. Consider developing a policy which requires that verbal consultations regarding discipline be documented and retained in the employee's personnel file.