
REPORT OF INVESTIGATION

ATF

Office of Professional Responsibility and Security Operations

U.S. Department
of
Justice



SUBJECT BOYKIN, LISA T., BITTELARI,
RALPH G., GREENE, KATHRYN

CASE NO. 20230-017

DATE 1/5/2024

(U) **WARNING:** This document and any attachments are intended solely for official ATF business. This document may contain information that is Sensitive but Unclassified (formerly referred to as Law Enforcement Sensitive and/or For Official Use Only) that may be statutorily or otherwise prohibited from being released without appropriate approval. This document may, in whole or in part, contain law enforcement information. Any duplication, reproduction, or dissemination of this document and any attachments, in any form, outside of ATF or the Department of Justice without express authorization is strictly prohibited.

FOR OFFICIAL USE ONLY

**US DEPARTMENT OF JUSTICE
BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES
INVESTIGATION REFERRAL MEMORANDUM**

INSTRUCTIONS

The information contained in the attached report represents the results of an investigation conducted by the Office of Professional Responsibility and Security Operations. It is submitted herewith for review, evaluation, and administrative disposition. Only the persons officially charged with the aforementioned responsibility should review this report: the information contained therein should be disseminated on a need to know basis only.

After action has been taken or a decision has been made that no action will be taken, both copies of this form should be endorsed below to show clearly the nature of action taken and the effective date, or the decision that no action

will be taken. If disciplinary action is taken please also return a copy of any of the following papers which may be applicable: notice of proposed adverse final decision, letter of reprimand, or written confirmation of oral admonishment, SF 50 covering action taken. Return both copies of this form and all of the investigative material to the following address:

AD, OPRSO
Bureau of ATF
99 New York Avenue NE
Washington, D.C. 20226

THIS REPORT IS NOT TO BE DUPLICATED UNLESS THE REPORT OR SECTIONS OF IT IS INTENDED FOR USE AS MATERIAL RELIED UPON IN SUPPORT OF A DISCIPLINARY OR ADVERSE ACTION.

REPORT FORWARDED TO Executive Assistant Director Alphonso Hughes	TYPE OF INVESTIGATION Internal	REPORT NUMBER 20230-017
---	-----------------------------------	----------------------------

COPIES FORWARDED TO

Assistant Director (Field Operations)

SUBJECT(S) OF INVESTIGATION	POSITION AND GRADE	POST OF DUTY
1. BOYKIN, Lisa T.	Chief Diversity Officer, SES	Washington, DC
2. BITTELARI, Ralph G.	Human Resource Specialist, GS-15	Washington, DC
3. GREENE, Kathryn G.	Deputy Division Chief (Retired), GS-15	Washington, DC

FORWARDING OFFICIAL, OPRSO Celinez Nunez, Assistant Director/CSO	SIGNATURE AND DATE CELINEZ NUNEZ
---	-------------------------------------

Digitally signed by CELINEZ NUNEZ
Date: 2024.01.05 16:08:53 -05'00'

NATURE OF FINAL ACTION AND EFFECTIVE DATE

NAME AND TITLE OF RETURNING OFFICIAL	SIGNATURE AND DATE
--------------------------------------	--------------------

U.S. DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

Report of Investigation

SUBJECT OF INVESTIGATION NAME: BOYKIN, Lisa T. SERIES/GRADE: ES-0301/00 EOD: [REDACTED] DOB: [REDACTED]	INVESTIGATION NO. 20230-017	POST OF DUTY Washington, DC	DIRECTORATE HRPD
	SUBJECT STATUS <input checked="" type="checkbox"/> EMPLOYEE <input type="checkbox"/> NONEMPLOYEE	TYPE OF INVESTIGATION <input type="checkbox"/> TORT CLAIM <input checked="" type="checkbox"/> INTERNAL <input type="checkbox"/> ACCIDENT	TYPE OF REPORT <input checked="" type="checkbox"/> FINAL <input type="checkbox"/> SUPPLEMENTAL

Reported Information/IncidentNAME: **BITTELARI, Ralph G.**SERIES/GRADE: **GS-0201/15**

EOD: [REDACTED]

DOB: [REDACTED]

NAME: **GREENE, Kathryn G.**
(retired)SERIES/GRADE: **GS-0201/15**

EOD: [REDACTED]

DOB: [REDACTED]

On February 12, 2021, Senior Attorney Bret Puscheck provided the Internal Affairs Division (IAD) with an overview of an allegation that ATF was improperly classifying position descriptions (PD). IAD learned that in approximately June of 2020, a whistleblower made allegations that the Office of Human Resources and Professional Development (HRPD) was misclassifying positions so that 1801 (Industry Operations Investigator (IOI)) and 1811 (Special Agent (SA)) job series personnel could occupy those positions. Those misclassifications resulted in the alleged improper payment of Law Enforcement Availability Pay (LEAP) for 1811 series personnel. The Office of Special Counsel (OSC) referred the matter back to ATF to conduct a self-inspection. **(Exhibit 1)**

Around September of 2020, ATF learned that the Office of Personnel Management (OPM) was conducting a similar investigation. OPM was interviewing the same personnel and reviewing the process ATF used to classify PDs. ATF suspended its self-inspection.

That month, ATF received the OPM preliminary report, which identified approximately 91 positions that were misclassified. OPM noted that the 1801 and 1811 career plans had not been created by the Human Resources Operations Division (HROD) and deviated substantially from OPM standards. OPM cited that those career plans emphasized seniority over merit. **(Exhibit 2)**

On November 2, 2020, OPM suspended ATF's authority to classify positions in the 1800 series. **(Exhibit 3)**

OPM issued its final report on the matter on March 1, 2021. **(Exhibit 4)**

DATE OF REPORT	REPORT SUBMITTED Shawn M. Stallo SHAWN STALLO <small>Digitally signed by SHAWN STALLO Date: 2024.01.03 13:49:04 -05'00'</small>	TITLE Special Agent
DATE OF REVIEW	REPORT REVIEWED BY Theron T. Jackson THERON JACKSON <small>Digitally signed by THERON JACKSON Date: 2024.01.03 14:24:53 -05'00'</small>	TITLE Special Agent in Charge

Sensitive But Unclassified/For Internal ATF Use Only

Documentation uncovered during ATF's self-inspection and OPM's investigation indicated that senior members of HROD were informed that some newly created positions did not meet the justifications for an 1801 or 1811 series. Rather than using the suggested PD, modifications were made to justify placing an 1801 or 1811 series employee into those positions. Personnel from different levels of management were involved in the classification discussions and should have been aware, through conversations and given their responsibilities, of the conflict created between the personnel being selected and the primary duties described in the PDs.

Additionally, on July 29, 2022, IAD received a monitored referral from the Department of Justice (DOJ) – Office of the Inspector General (OIG). The referred anonymous complaint alleged that despite the findings of the OPM audit, ATF leadership continued to conduct improper practices and was falsifying Standard Form 50s (SF-50s) to create the appearance that ATF was complying with OPM guidelines. **(Exhibit 5)**

Subject of Investigation

BOYKIN, Lisa T.

BITTELARI, Ralph G.

GREENE, Kathryn G. (retired)

Applicable Violations/Misconduct Identified from Investigation

5 U.S.C. § 2302(b)(2): Proper Considerations

An agency official shall not solicit or consider any recommendation or statement, oral or written, with respect to any individual who requests or is under consideration for any personnel action unless such recommendation or statement is based on the personal knowledge or records of the person furnishing it and consists of –

- A.) an evaluation of the work performance, ability, aptitude, or general qualifications of such individual; or
- B.) an evaluation of the character, loyalty, or suitability of such individual.

5 U.S.C. § 2302(b)(4): Obstructing the Right to Compete for Employment

An agency official shall not deceive or willfully obstruct any person with respect to such person's right to compete for employment.

5 U.S.C. § 2302(b)(6): Granting Any Preference or Advantage Not Authorized by Law

An agency official shall not grant any preference or advantage not authorized by law, rule, or regulation to any employee or applicant for employment (including defining the scope or manner of competition or requirements for any position) for the purpose of improving or injuring the prospects of any particular person for employment.

5 U.S.C. § 2302(b)(7): Nepotism

A federal government employee shall not appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement, in or to a civilian position any individual who is a relative of such employee if such position is in the agency in which such employee is serving as a public official or over which such employee exercises jurisdiction or control as such an official.

5 U.S.C. § 2302(b)(8): Whistleblower Protection

An agency official shall not take or fail to take a personnel action with respect to any employee or applicant for employment because of –

- A. any disclosure of information by an employee or applicant which the employee or applicant reasonably believes evidences –
 - i. a violation of any law, rule, or regulation, or
 - ii. gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs; or
- B. any disclosure to the Special Counsel, or to the Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures, of information which the employee or applicant reasonably believes evidences –
 - i. a violation of any law, rule or regulation, or
 - ii. gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

5 U.S.C. § 2302(b)(9): Protection Against Retaliation

An agency official shall not take or fail to take, or threaten to take or fail to take, any personnel action against any employee or applicant for employment because of –

- A. the exercise of any appeal, complaint, or grievance right granted by any law, rule, or regulation –
 - i. regard to remedying a violation of paragraph (8); or
 - ii. with other than with regard to remedying a violation of paragraph (8);
- B. testifying for or otherwise lawfully assisting any individual in the exercise of any right referred to in subparagraph (A)(i) or (ii);

- C. cooperating with or disclosing information to the Inspector General (or any other component responsible for internal investigation or review) of an agency, or the Special Counsel, in accordance with applicable provisions of law; or
- D. for refusing to obey an order that would require the individual to violate a law, a rule or regulation.

5 U.S.C. § 2302(b)(12): Violating Rules That Implement a Merit System Principle

An agency official shall not take or fail to take a personnel action if doing so would violate a law, rule or regulation implementing or directly concerning the merit system principles. To wit:

Merit System Principle 1: Recruitment, Selection and Advancement: Recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity.

ATF Order 2510.1B, Position Classification Program, (April 4, 2013, recertified April 4, 2018).

ATF Order 2510.1C, Position Classification Program, (March 9, 2020).

ATF Order 2724.1 Law Enforcement Availability Pay (LEAP), (July 25, 2020).

Law Enforcement Officer (p.2). A criminal investigator whose position is properly classified under the GS-1811 series, the duties of whose position are primarily the investigation, apprehension, or detention of individuals suspected or convicted of offenses against the criminal laws of the United States, including an employee engaged in this activity who is transferred to a supervisory or administrative position.

ATF Order 2140.1A, Adverse Action and Discipline, (June 14, 2019), Change 2 (September 20, 2021). (Exhibit 1) ATF Guide for Penalties and Offenses.

Failure to Follow Rules, Regulations, Policies or Procedures (p. 37). Employee failure to comply with rules, regulations, policies and/or procedures applicable to DOJ/ATF.

Poor Judgment (p. 39). Employee conduct or decision that was improper or detracted from the employee's character or reputation.

Lack of Candor (p. 39). Employee knowingly providing incorrect or incomplete information. Includes knowingly withholding information or knowingly providing less than candid, truthful, accurate or complete information.

Misuse of Official Position (p. 40). Employee use of official position for preferential treatment or personal gain.

Authorizing, Directing, or Condoning Subordinate to Violate Policies, Procedures, or Instructions. (p. 41). Supervisor authorization, direction, or condoning of subordinate violation of policies, procedures, or supervisory instructions in accordance with law, including failure to curtail inappropriate behavior of subordinates.

ATF Order 2130.2A, Employee Ethics and Responsibilities, (December 3, 2019), Change 4 (October 29, 2021).

Misuse of Position (p. 11).

- a. Employees shall not permit their official position, status, or designation to be used in a manner that is intended to further, or gives the appearance of furthering, the private interests of the user. Employees shall not create the appearance that the Federal Government endorses or sanctions any non-Federal individual, company, or interest.

Rules of Conduct – Prohibited Actions (p. 13). An employee shall avoid any action, even if not specifically prohibited by this order, which might result in, or create the appearance of:

- a. Using public office for private gain;
- b. Giving preferential treatment to any person;
- c. Impeding Government efficiency or economy;
- d. A loss of impartiality;
- e. Making a Government decision outside of official channels or without authority; or
- f. Adversely affecting the confidence of the public in the integrity of the Government.

ATF Publication 2130.2, ATF Ethics Pocketguide, (March 2015).

Use of Public Office or Position for Private Gain (p. 42). As an ATF employee, you may not use your public office for your own private gain or for the private gain of friends, relatives, business associates, or any other entity, no matter how worthy. Except as provided by law or regulation, you may not use or permit the use of your Government position or title or any authority associated with your public office in a manner that could reasonably be construed to imply that ATF or the Government sanctions or endorses any of your personal activities or the activities of another. You may not use or permit the use of your Government position or title or any authority associated with your public office in a manner that is intended to coerce or induce another person, including a subordinate, to provide any benefit, financial or otherwise, to you or to friends, relatives, or persons with whom you are affiliated in a non-governmental capacity.

**ATF Memorandum to All ATF Managers from Deputy Director, (December 2014).
(Exhibit 152)**

This memorandum provides guidance to all ATF managers who wish to fill critical vacancies using temporary promotions. When used properly, temporary promotions and details help

20230-017: BOYKIN, LISA T., ET AL.

5

Sensitive But Unclassified/For Internal ATF Use Only

managers ensure continuity of operations. However, it is important that managers are mindful of the limitations on the use of temporary promotions and details.

While managers should consider rotations of "higher-graded" work to employees for career development purposes, they should be aware that temporary promotions for all job series must not exceed 120 days in a 12-month period, and details may only be assigned in increments of 120 days, up to a 1-year maximum, including details to unclassified duties.

All supervisors must be aware that an employee may never be permanently reassigned to a higher-graded position to which he or she was temporarily reassigned unless the employee was selected for the temporary promotion under competitive selection procedures (i.e. a temporary promotion vacancy announcement in excess of 120 days).

FMS Notification Message - #22-0209.1 – Priority: Informational – Temporary Promotion Actions (Exhibit 151)

5. IMPORTANT: Temporary promotions cannot exceed 120 days without competition. HROD will confirm this information prior to moving forward and make necessary adjustments with the "not to exceed date."

Preface

According to ATF and OPM policy, and interviews conducted with HRPD employees, the duties of an HR specialist in the Classification and Position Management Branch (CPMB), (hereafter referred to as "classifiers") are to determine the appropriate title, series, and grade level of a position based on an evaluation of the duties provided by the manager of that position. To initiate the classification of a new or reestablished position, the first-line supervisor of that position creates a draft PD and submits it to the CPMB. A classifier then compares that draft PD to OPM standards and determines the title, series, and grade that fit the duties in that draft PD.

An Optional Form 8 (OF-8) is the coversheet for each PD and is used to verify that the information in the PD is correct and complies with federal law and standards. The supervisor of the position certifies through their signature that the PD is *"an accurate statement of the major duties and responsibilities of [the] position and its organizational relationships, and that the position is necessary to carry out Government functions for which [the supervisor is] responsible. This certification is made with the knowledge that this information is to be used for statutory purposes relating to appointment and payment of public funds, and that false or misleading statements may constitute violations of such statutes or their implementing regulations."*

Further, the classifier certifies through their signature that the *"position has been classified/graded as required by Title 5 U.S. Code, in conformance with standards published by*

the U.S. Office of Personnel Management or, if no published standards apply directly, consistently with the most applicable published standards.” (Exhibit 6)

Synopsis of Internal Affairs Division Investigation

The IAD investigation found that circumstances surrounding the implementation of the improper policies and practices stemmed from poor leadership in HRPD and at the ATF executive level. Additionally, stakeholders in the Office of Field Operations improperly influenced decisions regarding those policies and practices.

The general sentiment from several witnesses was that an ingrained culture existed within ATF that 1811 and 1801 series employees needed to occupy administrative Headquarters (HQ) positions to gain the experience necessary for employees in those series to properly develop into leaders, and it was “the way it had always been done.” Additionally, HRPD appeared to function as a “customer service” arm of the Agency rather than an equal partner that ensured ATF managed human capital in accordance with federal laws and regulations.

Those general findings were specifically exemplified through statements made by HRPD Division Chief (DC) Ralph BITTELARI (GS-0201-15) and HRPD Deputy Assistant Director (DAD) Lisa BOYKIN (ES-0301).

DC BITTELARI noted that there was not much of an “*appetite*” from senior leadership to shift that culture. **(Exhibit 46, page 61)**

After being asked about HRPD members raising issues about improper classification and her reason for not taking action to remedy the situation, DAD BOYKIN stated: “*Um, [Pause] one of the re [PH]—I would say the primary reason is because, um, when issues were raised about individuals being in positions that were questionable, um, [Pause] leadership believed that these positions were still appropriate, and they wanted to have that skillset in those positions. And they believed that skillset was critical to running the operations.*” Further, “*I didn’t disagree. I didn’t disagree because it was their organization and they had specific duties and responsibilities that they [Stammers] wanted carried out.*” When asked if “their” organization meant ATF executives, DAD BOYKIN stated, “*Well, I wanted to ensure that... [Pause] Yes, in that sense. And I just wanted to ensure that if they needed, um—if they wanted to make any changes in that position that we were advising them appropriately that they could make those changes. Um, again, being a law enforcement centric organization, some of the push was to ensure our 1800 series personnel had opportunities at various levels in the organization and in various positions in the organization. Um, and that was the general business model.*” Regarding whether those ATF executives relied on her HR expertise, “*Um, for the most part. Yes. But again, being a law enforcement led organization, there was a desire to have 1800 series in positions where they could have an, uh—best opportunity to lead the organization.*” **(Exhibit 50, pages 16-18)**

IAD attempted to identify specific instances wherein no action was taken, or improper actions were taken, despite concerns being raised to HRPD management regarding 1800 series personnel occupying administrative positions in HQ. The following instances were revealed:

June 26, 2018: [REDACTED] and [REDACTED] meeting with HRPD Assistant Director (AD) Kenneth Croke and DAD BOYKIN.^{1 2}

- Mr. [REDACTED] and Mr. [REDACTED] indicated that they told AD Croke and DAD BOYKIN that the administrative positions that GS-1811s and GS-1801s are assigned to in HQ were improperly classified.
- During an IAD interview in April 2022, DAD BOYKIN stated that during that meeting, Mr. [REDACTED] discussed his ideas about improving process systems and workflow. The meeting then turned to Mr. [REDACTED] discussing specific employees and their lack of professionalism or work ethic.
- When IAD asked what specific staffing or personnel actions Mr. [REDACTED] discussed, DAD BOYKIN stated processes. She said that no specific series were discussed other than staffing specialists and how their training could be improved.
- DAD BOYKIN said they “could have” discussed 1811s, but she did not recall.
- DAD BOYKIN did not believe they discussed LEAP during that meeting.
- OSC indicated that AD Croke denied being upset by the meeting. During the April 2022 IAD interview, DAD BOYKIN said that AD Croke was upset by the meeting.
- OSC indicated that DAD BOYKIN and AD Croke said that they did not understand the issues being raised in the meeting. However, IAD discovered that:
 - On June 27, 2018, the day after that meeting, HRPD Deputy Division Chief (DDC) Kathryn GREENE (GS-0201-15) sent an e-mail to DAD BOYKIN stating that she reached out to the U.S. Marshals Service (USMS) and the Drug Enforcement Administration (DEA), and that she knew that DAD BOYKIN wanted information that day, but she hoped to have information by tomorrow. DAD BOYKIN responded that AD Croke wanted DDC GREENE to address Mr. [REDACTED] DC BITTELARI was also carbon copied on that e-mail.
 - On June 29, 2018, DAD BOYKIN sent an e-mail to an employee at USMS stating, “I am interested in knowing if Marshal’s [sic] has law enforcement personnel (LEOs) supervising any HR or Training functions?” (**Exhibit 132**)

¹ At the time of the June 26, 2018, meeting, Mr. [REDACTED] was employed by ATF as a Compliance Quality Reviewer (PD 016-099). (**Exhibit 136**) Duties for that position include advising Human Resources Operations Division (HROD) management concerning compliance issues associated with recruitment, hiring, staffing and personnel action processing and making administrative and operational modifications to ensure compliance with rules, regulations, policies, and procedures. Mr. [REDACTED] stated that he identified the 1800 series misclassification issue in 2017, within the first six months of employment with ATF, and alerted his chain of command and ATF leadership to the issues on several occasions. He provided IAD numerous e-mails he sent over the years regarding that issue.

² In approximately August 2017, Mr. [REDACTED] recognized that employees in the 1750 series in the Leadership and Professional Development Division were improperly classified. Once that improper classification was noticed, DC BITTELARI and Mr. [REDACTED] resolved the issue by properly classifying the employees into the 0201 series.

- DAD BOYKIN told IAD that she did not “zero in” on what Mr. [REDACTED] was trying to convey at the June 26, 2018, meeting until he sent an e-mail to his chain of command. She was not sure the e-mail was a result of the meeting. She said Mr. [REDACTED]’s e-mail did not initially cause her to reexamine her understanding of that meeting.
 - During her April 2022 interview, IAD showed DAD BOYKIN Mr. [REDACTED]’s follow-up e-mail sent to AD Croke on the day of the June 26, 2018, meeting. AD Croke forwarded that e-mail to her on June 27, 2018. DAD BOYKIN stated that she understood the e-mail to mean, “Well, he’s saying that individuals that are in the 1811 series are being placed on position description that are of administrative duties that are not, um, law enforcement centric.” **(Exhibit 50, page 11)**
- E-mail traffic also indicated that both DDC GREENE and DC BITTELARI were aware of the information that Mr. [REDACTED] presented.
 - DC BITTELARI told IAD that his understanding was that the June 26, 2018, meeting was about the misclassification of positions in the 1800 series. He stated that AD Croke and DAD BOYKIN thought the issue could have been resolved through the chain of command.
 - DC BITTELARI and DAD BOYKIN stated that they took no action to correct that issue until the OPM audit.
 - Regarding the reassignment of Mr. [REDACTED] to the SA/IOI Hiring Branch, Recruitment, Diversity and Hiring Division (RDHD), approximately 2 months after the meeting, DC BITTELARI said he recommended that reassignment and that Mr. [REDACTED] told him that Mr. [REDACTED] looked forward to it and was “flattered” that DC BITTELARI considered him for the new position. However, Mr. [REDACTED] told IAD that he thought of the reassignment as a demotion and that he did not do any productive work in RDHD for 3 years. Additionally, David Kamentz, then Chief of RDHD, stated that he did not have a need for Mr. [REDACTED] in RDHD.

November 2019: Selection of Nilda Santamaria to GS-15 Chief of the Workforce Wellness and Services Division.

- In approximately April 2019, Nilda Santamaria, a GS-1801-15, was assigned to a working group created to examine and develop programs related to employee wellness and to make recommendations for a new ATF division. The result was the development of the Workforce Wellness and Services Division (WWSD) that came into effect in March 2020.
- Ms. Santamaria stated that sometime before November 2019, HRPD AD Steven Gerido asked her to be the GS-15 Chief of the WWSD. She was not interviewed for the position.
- On January 14, 2020, approximately 2 months after being asked by AD Gerido to be the WWSD Chief, Ms. Santamaria submitted a draft PD (WWSD Chief PD) for the Chief of the WWSD position that was routed via e-mail through DAD BOYKIN to Chief of Staff (CoS) Lidia Barnes to the CPMB. **(Exhibit 72)**

- On January 28, 2020, CPMB classifier ██████████ a GS-0201-13, was assigned to work on the WWSD Chief PD. He told his supervisor, Branch Chief (BC) Nina Cox, a GS-0201-14, that based on the duties of the position, it should not be classified as an 1801. BC Cox agreed. **(Exhibit 72)**
- On February 6, 2020, BC Cox and Mr. ██████████ advised CoS Barnes, who was facilitating the implementation of the WWSD Chief PD on behalf of DAD BOYKIN, that they did not recommend the position of WWSD Chief being classified in the 1801 series. **(Exhibit 65)**
- On February 25, 2020, DDC GREENE sent an e-mail to BC Cox instructing her to, "Have ██████████ finalize PD for Nilda and put Ralph as the Classifier and AD Gerido as the 2nd level supervisor." **(Exhibit 80)**
- On February 25, 2020, Mr. ██████████ sent an e-mail to his chain of command (BC Cox, DDC GREENE, and DC BITTELARI) stating that he recused himself from further involvement with the WWSD Chief PD, stating, "I have already reviewed and provided my classification recommendation based on OPM standards and policy for the proposed Chief, Wellness Division position and believe this outcome is not supportable based on OPM standards and policy." In a response e-mail, DC BITTELARI acknowledged Mr. ██████████ recusal.³ **(Exhibit 80)**
- On February 26, 2020, DC BITTELARI signed the OF-8 for that PD as did AD Gerido. **(Exhibit 64)**
- Mr. ██████████ told IAD that he was threatened with insubordination regarding that PD by DDC GREENE. An e-mailed conversation between Mr. ██████████ and his co-worker, ██████████ on March 13, 2020, contemporaneously documented that assertion. **(Exhibit 62)**
- During his IAD interview, AD Gerido appeared to have limited knowledge of an OF-8. He did not recall whether he selected Ms. Santamaria to be the Chief of the WWSD. He did not know why DAD BOYKIN did not sign the OF-8.
- DC BITTELARI stated that he had no recollection of the WWSD issue even after reviewing a related e-mail. He also stated, "I don't think it would be appropriate for someone to draft their own PD, uh, because then they, uh—then the manager is not determining what the, what the work—they can really drive what the series is. I mean, that's really the bottom line." **(Exhibit 46)**
- DDC GREENE told IAD that Ms. Santamaria never should have drafted the PD for the WWSD Chief.
- DDC GREENE recused herself from working on that PD because she agreed that it should not have been classified in the 1801 series.⁴

³ Mr. ██████████ left ATF in March 2020 mostly due to the "egregious" red flags he observed pertaining to the creation of the WWSD, including the preselection of Ms. Santamaria and the misclassified PD. Additionally, he felt that ATF leadership did not trust the staff, and he did not feel he had upward mobility within ATF.

⁴ DDC GREENE was the HROD Deputy Chief over the CPMB. She retired in 2020, stating "Um, I was tired. At the time, I had 33 years, over 33 years' ... But, I'm, I'm going to be honest with you and frank um, there were a lot of things um, I got frustrated with always being told I was—Excuse me. Um, I was being told—I, I'm the resident

- DAD BOYKIN stated that she was the first-line supervisor for the WWSD Chief (Ms. Santamaria), so she should have been the approving official for that position.
- DAD BOYKIN stated that an uncompetitive reassignment can occur if an employee is found to be qualified as determined through a comparison of that employee's resume to the PD.
- In April 2022, DAD BOYKIN stated to IAD that if Ms. Santamaria was selected before the PD was approved, that would have been improper.
- In April 2022, DAD BOYKIN stated to IAD that she did not know whether Ms. Santamaria was selected before the PD was approved. However, e-mails showed that she and Ms. Santamaria created the draft PD together in January 2020. **(Exhibit 137)**
- DAD BOYKIN stated that she believed Ms. Santamaria was selected by the Acting Director (Regina Lombardo) or AD Gerido, and it could have been in November or December of 2019.
- A timeline created by Ms. Santamaria showed that she and DAD BOYKIN attended meetings and functions together regarding WWSD. Beginning in December of 2019, Ms. Santamaria's participation in those events was as the WWSD Chief. Those events were prior to the approval of the PD. **(Exhibit 138)**
- DAD BOYKIN and Ms. Santamaria attended the International Association of Chiefs of Police (IACP) Wellness and Safety Symposium in Miami, Florida, from February 27 to February 29, 2020. The WWSD Chief PD was signed on February 26, 2020. **(Exhibits 138 and 64)**
- When IAD asked DAD BOYKIN if members of CPMB had concerns regarding that PD and that it should have been classified to a different series, she responded, "I don't remember. [U/I]. [Stammers] They prob [PH]—they may have. I just don't remember." **(Exhibit 48, page 26)**

November 2020 – January 2021: Post-OPM finding promotion and permanent change of station (PCS) of Stacy Cunningham to the Office of Public and Government Affairs under PD A93024.

- On September 22, 2020, SA Stacy Cunningham, a GS-1811-13 working in the Phoenix Field Division, was selected as a GS-1811-14 Program Manager in PGA. The proposed effective date was January 17, 2021, after OPM had suspended ATF's authority to classify positions in the 1800 series. **(Exhibit 81)**
- The SF-50 showed that the effective date for her promotion was January 31, 2021, and the listed PD was A93024. **(Exhibit 83)**
- PD A93024 was listed as a problematic PD during the OPM audit, which commenced on August 31, 2020, and continued until September 18, 2020. **(Exhibits 2 and 4)**
- In approximately November 2020, BC Cox and Shuntanya Clark, also a supervisory GS-0201-14 Human Resources Specialist, and then Chief of the Executive Supervisory Staffing Center (ESSC), observed that SA Cunningham's selection/promotion/permanent

expert but at the same time you're not following my advice. So, with all the [U/I] that, that it just kinda and I think with Covid um, it was, it was just [Stammers] I just said, you know what? This is, it really just is time to go."

change of station was problematic due to OPM's advisement to ATF to cease the use of that PD. Chief Clark recommended that ATF rescind the job offer. In a response e-mail, DC BITTELARI agreed. **(Exhibit 90)**

- November 2, 2020, e-mails show that DC BITTELARI agreed with those concerns and forwarded the information to DAD BOYKIN. DC BITTELARI stated to DAD BOYKIN, "we will need to pull this offer back. Would Gerido want to speak with AD PGA before we do?" DAD BOYKIN responded, "Detailing is an option. Let's discuss so that I can present all of our options." **(Exhibit 90)**
- A November 2, 2020, e-mail indicated that DAD BOYKIN advised AD Gerido of that situation and that "we are working with DOJ on the best way to proceed." **(Exhibit 88)**
- On January 8, 2021, (over 2 months later) PGA Chief of Staff Jacqueline Logan asked BC Cox, "We never received an answer on the status of Stacy Cunningham, who is due to relocate to HQs on Jan 17th. Please advise." An e-mail chain continued from that e-mail between PGA Chief of Staff Jacqueline Logan, DC BITTELARI, and DAD BOYKIN. That chain revealed that on January 8, 2021, DC BITTELARI made queries as to whether Ms. Cunningham "Has made arrangements to move; Has been made aware of this situation; If PGA would have an issue with assigning the employee to unclassified duties in the meantime." CoS Logan responded that Ms. Cunningham had begun the relocation process and was scheduled to arrive in the Washington, DC, area the next week. DC BITTELARI forwarded the e-mail chain to DAD BOYKIN. DAD BOYKIN responded, "As discussed, this is one of the scenarios that we made DOJ and OPM aware of in our communication with them. We will have to document, via a memorandum to the file regarding the employee's relocation and work with classification to ensure we place the employee on the appropriate duty document." **(Exhibit 85)**
- On January 25, 2021, Chief Clark requested information on the outcome of the matter in an e-mail, stating, "Can you please provide some insight into the final outcome of this matter. I never received further correspondence on what the plan was since this was a position and/or PD identified by OPM. This would be a promotion for the employee and we cannot promote to unspecified duties." Ms. Cox responded, "Yes, we cannot promote to unclassified duties." DC BITTELARI responded, "Please do not respond to PGA. We need to meet on this one." **(Exhibit 82)**
- BC Cox told IAD that she and DC BITTELARI had a phone call on or about January 26, 2021, regarding that matter prior to DC BITTELARI approving the action. **(Exhibit 84)**
- In February 2021, DC BITTELARI discussed the original promotion action with DAD BOYKIN and approved it. **(Exhibits 85 and 87)**
- On February 1, 2021, due to her concern regarding the improper action, BC Cox alerted an HR Specialist by e-mail to be on the lookout for a promotion action for SA Cunningham. That HR Specialist replied, "*Ralph put the action as HR1 for 1/17/21 and sent it directly to payroll for processing. I did not see it.*" Later she responded, "*He [Ralph] entered A93024, GS-1811-14 (Program Manager), in PGA. It is on the OPM Audit list.*" **(Exhibit 86)**
- On March 10, 2021, BC Cox stated in an e-mail to her employees, "*In the call, I asked Ralph, 'Does everyone (the Executives) understand, that by doing this, OPM could take*

ALL of our authority?" Ralph responded, "Yes" Ralph, made it clear that everyone was fully aware of the potential consequences and said he will put the action in HRconnect and the employee, Stacy Cunningham, will PCS from, Arizona as a, GS-1811-13 in the Office of Field Operations, to the Office of Public and Governmental Affairs in Headquarters[sic], using PD#A93024, GS-1811-14, identified in the OPM audit." In that e-mail, BC Cox said that call occurred on January 26, 2021. BC Cox also asserted in that e-mail that in a November 2020 meeting, DAD BOYKIN and DC BITTELARI asked whether ATF could have a "grace period" for moving employees who were selected into OPM identified positions before the audit. BC Cox said in the e-mail, *"ATF was advised by Joann Plasky (OPM) not to PCS, not to use PDs identified in the audit, and not to complete/process any personnel actions using PDs identified in the audit, as doing this would only make the issue worse for ATF."*⁵ (Exhibit 84)

- When IAD asked DC BITTELARI about SA Cunningham's promotion, he stated that the position may have been filled with the "caveat that we may have to move her out." (Exhibit 46, page 55)
- DC BITTELARI stated that ATF filled that position because ATF did not have a final disposition/report from OPM. He stated that the preliminary OPM report was received in October 2020.
- Regarding whether there was a moratorium on promotions between the preliminary and final OPM reports, DC BITTELARI told IAD, *"I, I don't know that there was. And, and frankly, I was troubled with a lack of response from the executive staff in the front office. Um, so, we were kind of left to fend for ourselves for a few months."* (Exhibit 46)
- Regarding whether ATF asked OPM if the positions identified in the preliminary report could be filled prior to the final report, DC BITTELARI said he asked OPM about five positions, and ATF only received a response regarding one of the positions. He did not identify the five positions.
- In a November 13, 2020, e-mail sent to OPM, DC BITTELARI advised that he sent all ATF Chiefs of Staff an e-mail stating, *"New 1800 (1811 and 1801) series position descriptions (PDs) must be approved by OPM prior to classification until further notice. If you need to create a new 1800 series PD in your Directorate, reach out to Nina Cox, Chief, Classification and Performance Management Branch (CPMB) for guidance.2. All eRecruits and vacancies for 1811 and 1801 positions identified on OPM's list have been/will be cancelled. The assigned HR specialist will reach out to the hiring manager. 3. Effective immediately, all selections that have been made for positions identified on OPM's list will be held in a "holding status" until further notice. Those employees should not PCS or report for duty in the new position until HRPD has reached out to the Chief of Staff and hiring manager, and confirmed that those actions may proceed. 4. All*

⁵ BC Cox left ATF in March 2021. She left because she felt decisions that DC BITTELARI and DAD BOYKIN were making after the audit were not helping, but making it worse, for ATF. She did not believe that they were taking the findings of the audit seriously. She stated that SA Cunningham's promotion was the "last straw." BC Cox told IAD that DC BITTELARI told her that if BC Cox wanted to promote, she must make those decisions. She felt that DC BITTELARI meant that she had to "get her hands dirty" and compromise her integrity.

positions identified on OPM's list may only be filled using 90-day detailees until further notice." **(Exhibits 89 and 135)**

NOTE: IAD conducted a search of DC BITTELARI's e-mails and was unable to locate the e-mail to the Chiefs of Staff. IAD did find e-mails where DC BITTELARI shared the proposed language with HRPD staff for review and a November 2, 2020, e-mail from Chief Shuntonya Clark to four Chiefs of Staff with the language quoted above.

February 27, 2022 - present: Post-OPM Audit reassignment of Ryan Kaye.

- In approximately December 2019, Ryan Kaye, a GS-1811-14 Resident Agent in Charge (RAC) assigned to the Richmond III Field Office, Washington Field Division, began a temporary detail as the GS-1811-14 Chief of the Resource Management Branch (RMB). SA Kaye was asked to participate in the temporary detail by (retired) Assistant Director Thomas Chittum, and SA Kaye agreed. **(Exhibit 51)**
- In approximately April 2020, he was noncompetitively reassigned as the permanent GS-1811-14 Chief of RMB. **(Exhibit 52)**
- In approximately September 2020, that position was found to be misclassified during the OPM audit (PD 19-089). **(Exhibits 2 and 4)**
- A November 16, 2020, e-mail between Office of Management leadership including Mark Danter, Eric Lippold, SA Kaye, and Stephan Kolcio discussed that OPM found that SA Kaye's position as Chief of RMB was misclassified. In response, Mr. Lippold stated, "the RMB Branch Chief should be classified as a GS-1811-15. We can and will justify this." **(Exhibit 135)**
- Due to the OPM audit, SA Kaye needed to be reassigned from his position as Chief, RMB. SA Kaye met with ASAC Bryan Mein to discuss SA Kaye's options.
- An October 22, 2021, memo and October 27, 2021, e-mails show that SA Kaye was originally selected as the Group Supervisor (GS) of the Washington VII Field Office (CGIC), effective November 7, 2021. That reassignment was due to the OPM audit. **(Exhibits 157 and 158)**
- E-mails and IAD's interview with SA Kaye indicate that although the selection was made, SA Kaye understood that he would never fill that role in terms of duties and responsibilities **(Exhibits 51 and 159)**
- A November 10, 2021, e-mail shows that proposed start date for SA Kaye's reassignment to GS of the CGIC was changed from November 7, 2021, to February 27, 2022. **(Exhibit 160)**
- SA Kaye told IAD that to alleviate constraints that were put into place due to the OPM audit, in December 2021, he proposed that RMB be "lifted and shifted" from the Office of Management to the Office of Field Operations – FMS. His proposal included a GS-1811-15 Deputy Chief that would oversee RMB. In December 2021, SA Kaye e-mailed that proposal to HR and to various executives within ATF, including Assistant Director George Lauder (retired), and was ultimately signed into effect by AD Lauder in

approximately the summer of 2022. **(Exhibits 51, 130, 154, 161, 162, 163, and 52 page 9)**

- An SF-50 documented that SA Kaye was reassigned from RMB to Group Supervisor (GS) of the Martinsburg Field Office on February 27, 2022. **(Exhibit 129)**

NOTE: IAD did not locate an SF-50 showing that SA Kaye was reassigned to the Washington Field Division, Washington VII Field Office (CGIC).

- HRPD notified IAD and OPM (in response to post-audit reporting requirements) that SA Kaye was reassigned from RMB to Group Supervisor (GS) of the Martinsburg Field Office, Washington Field Division, on February 27, 2022. An SF-50 documents that reassignment action. **(Exhibits 107 and 129)**
- An SF-50 for SA Kaye 1 month later, on March 27, 2022, showed that he was reassigned from the GS for the Martinsburg Field Office to the Division Operations Officer (DOO) for the Washington Field Division. **(Exhibit 129)**
- During an IAD interview on October 3, 2022, SA Kaye stated that from February 27, 2022, to that day, he was still performing the duties of RMB Chief and had maintained the same office in HQ. He further stated that he never performed GS duties in the Martinsburg Field Office, nor the duties of the DOO in the Washington Field Division. **(Exhibit 51)**
- In September 2022, IAD observed an SF-50 for SA Kaye showing that he received an individual cash award on July 31, 2022, in the amount of \$5,000, for worked performed as the Chief of RMB, while he was assigned on an SF-50 as the DOO of the Washington Field Division. **(Exhibits 129 and 139)**
- The explanation for SA Kaye's \$5,000.00 cash award on July 31, 2022, included information about SA Kaye's work on the realignment of RMB to Field Operations due to the OPM audit. It also stated that Ryan "continues" to perform RMB duties. **(Exhibit 139)**
- A review of SF-50s shows that SA Kaye was no longer assigned as the Chief of RMB as of February 27, 2022. **(Exhibit 129)**
- SA Kaye was listed as the DOO of the Washington Field Division on an Office of Field Operations directory dated September 26, 2022. **(Exhibit 133)**
- During the IAD interview, SA Kaye advised that a new GS-1811-15 Deputy Chief position in Field Management Staff (FMS) (Field Operations) was recently created that will oversee RMB. SA Kaye applied to that vacancy announcement (22-MER-216-SRR). **(Exhibits 51 and 155)**
- A memorandum obtained by Chief Counsel Pamela Hicks through Office of Field Operations Assistant Director Kristen deTineo shows that a Temporary Promotion Action was implemented on October 6, 2022, (3 days after SA Kaye's IAD interview) indicating, "SA Ryan Kaye is being non-competitively temporarily promoted from Special Agent GS-1811-14 to Special Agent, GS-1811-15 not to exceed (NTE) 120 days." **(Exhibits 144, 145, 146, 147, and 148)**

- On October 23, 2022, approximately 20 days following SA Kaye's IAD interview, an SF-50 showed that SA Kaye was reassigned from the DOO in the Washington Field Division (PD A98184) to a temporary detail (not to exceed January 28, 2023) as a GS-1811-15 Deputy Division Chief in FMS (PD 008047). **(Exhibit 149)**
- A January 29, 2023, SF-50 showed that SA Kaye returned to the DOO position in the Washington Field Division. **(Exhibit 150)**
- A March 12, 2023, SF-50 showed that SA Kaye was detailed to DOO (A98184) in the Washington Field Division, not to exceed July 1, 2023. The SF-50 does not show the originating position. **(Exhibit 150)**
- A March 26, 2023, SF-50 showed that SA Kaye was promoted to GS-1811-15 Deputy Division Chief (PD 008047) in FMS. The SF-50 further states that he was selected from vacancy announcement 22-MER-216-SRR-BQMP, dated September 7, 2022. **(Exhibits 150 and 155)**
- An FMS Organizational Chart, dated August 21, 2023, showed that SA Kaye is the GS-1811-15 Deputy Division Chief that oversees RMB. **(Exhibit 156)**

The implementation of Schedule B hiring authority for GS-1811 series.

- The SA/IOI Recruitment, Diversity, and Hiring Division (RDHD) is responsible for recruitment and hiring of all ATF SAs and IOIs.
- Applications for Schedule B authority consideration were submitted to RDHD from applicants solely through ATF field divisions and through HQ Senior Executive Service (SES) submissions.
- RDHD limited field divisions to a specific number of applicants. At times, only 25 applicants were permitted from each field division.
- Field divisions were required to screen applicants and submit only the prescribed number of resumes to RDHD. The other resumes were discarded, and those applicants were removed from the hiring process.
- All resumes submitted through HQ SES members were forwarded to RDHD.
- Only individuals that were aware of ATF employees and heard through word of mouth would have known how to apply. Even then, the limitations on resumes submitted to RDHD were subjected to selection by ATF SES/management from the field divisions or HQ.
- E-mail evidence and witness testimony revealed potential improper influence in the hiring of SES employees' children, specifically HRPD AD Croke, HRPD DAD Peter Forcelli, and Office of Professional Responsibility and Security Operations (OPRSO) DAD Mickey Leadingham.