Port Orange Police Department
INTERNAL AFFAIRS INVESTIGATION for PSI 2023.07.0001

Complainant: Director Michael D. Fowler, Daytona Beach Shores Department of Public Safety

Employee: Lieutenant Michael Schoenbrod, Daytona Beach Shores Dept. of Public Safety

Investigator: Lieutenant Thomas Aiken, Port Orange Police Department

Summary of Allegations

On 06/30/2023, Lt. Schoenbrod was instructed by Director Fowler to provide a copy of the recorded conversation between Lt. Schoenbrod and Det. Daniel Carrazana that occurred on 04/07/2023. It was discovered on 07/03/2023 that the copy of the audio recording provided by Lt. Schoenbrod had been altered to remove portions of their conversation. An investigation was ordered by Director Fowler on July 3, 2023 due to the allegation of a violation of the following Daytona Beach Shores Department of Public Safety (DBS DPS) policies that may have occurred on or after April 7, 2023:

> **Code of Conduct: 5.1.5** Employees shall not commit any act or crime defined by state or federal law as a felony, whether chargeable or not.
>
> **Code of Conduct: 5.1.94** Employees shall not steal, alter or forge or tamper with any kind of public safety record, report or citation. To this end, the unlawful or unauthorized removal of any record, card, report, letter, document, or other official file from the department is prohibited.
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> **Digital Recording Devices Recording System: 71.4.17** Members of the agency will not edit, alter, erase, duplicate, copy, share, or otherwise distribute in any manner digital recordings without prior written authorization.

Investigation Narrative

Timeline

Date	Time	Description
04/07/2023	06:33hrs	Lt. Schoenbrod recorded his conversation with (then) Det. Carrazana, who was aware it was being recorded.
06/29/2023	08:57hrs	Public record request made by Daniel Carrazana for the audio recorded conversation between he and Lt. Schoenbrod from 04/07/2023
06/30/2023	Unknown	Director Fowler instructed Lt. Schoenbrod to provide a copy of the recorded conversation.
07/03/2023	Unknown	Lt. Schoenbrod informed Director Fowler via telephone that he (Schoenbrod) edited out parts of the recording several weeks earlier.
07/03/2023	Unknown	Lt. Schoenbrod provided the edited recording to City Clerk Cheri Schwab.
07/03/2023	15:18hrs	Cheri Schwab emailed City Atty. Becky Vose a link to the audio recording copied to Schwab's OneDrive account.
07/03/2023	Unknown	Atty. Becky Vose advised Director Fowler she believed the recording was a public record and that there appeared to be a violation of F.S.S. 838.022.
07/03/2023	Unknown	Director Fowler ordered a professional standards investigation be opened and placed Lt. Schoenbrod on administrative leave.
07/06/2023	13:27hrs	Cheri Schwab emailed Daniel Carrazana a link to the edited audio recording.
07/06/2023	11:00hrs	Lt. Schoenbrod's department-issued cellphone was turned over to FDLE SA Scott Ratliff.

Review of Memorandum from Director Michael Fowler

In a letter to Chief Manuel Marino dated 07/06/2023, Director Michael Fowler wrote that on 07/03/2023 he ordered a professional standards investigation into one of his staff members, Lt. Michael Schoenbrod. Due to his professional standards investigator having been recently transferred under the command of Lt. Schoenbrod, Director Fowler believed there was a conflict of interest. With his agency having fewer than thirty-five (35) sworn officers, Director Fowler requested from Chief Manuel Marino that a sworn or certified investigator from

the Port Orange Police Department conduct the investigation per F.S.S. 112.533(2).

Review of the Audio Recording

The copy of the audio recording provided to me by Sgt. Frank of the DBS DPS is 42 minutes and 11 seconds in length. The recording starts with Lt. Schoenbrod stating the date and time of the recording being April 4th at 6:33am and that Det. Carrazana requested to speak with him in his (Schoenbrod's) office, that they were alone, and confirmed that Daniel Carrazana was aware that the conversation was being recorded. Daniel Carrazana advised that the date was actually April 7th. Lt. Schoenbrod acknowledged the correct date.

Det. Carrazana began by talking about an email he received from Lt. Schoenbrod regarding the SWAT Team. Det. Carrazana stated that in light of things Lt. Schoenbrod just discussed, he wanted to "clear the air" about things that were supposedly said previously regarding the incident involving the potty-training incident involving Lt. Schoenbrod and Sgt. Long.

02:32 –The sound of the recording changed and, when it resumed, the conversation that continued didn't match up with where it left off. They then continued talking about the potty training incident and Det. Carrazana's FDLE interview.

03:13 –As with the first part suspected of being edited, when the recording resumed at 03:16, the conversation didn't match where it left off. They continued talking and Det. Carrazana spoke of strained work relationships at their agency.

05:43 – Lt. Schoenbrod mentioned his son's name.

19:48 - Lt. Schoenbrod mentioned his son's name again.

The conversation later transitioned to a discussion about interpersonal conflicts within their agency and SWAT Team related things. No other portions during the remainder of the audio recording sounded as though they had been edited out.

Review of Florida State Statutes, Chapter 119 – Public Records

"*119.07 Inspection and copying of records; photographing public records; fees; exemptions.—*

(1)(a) Every person who has custody of a public record shall permit the record to be inspected and copied by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public records.

(d) A person who has custody of a public record who asserts that an exemption applies to a part of such record shall redact that portion of the record to which an exemption has been asserted and validly applies, and such person shall produce the remainder of such record for inspection and copying.

(e) If the person who has custody of a public record contends that all or part of the record is exempt from inspection and copying, he or she shall state the basis of the exemption that he or she contends is applicable to the record, including the statutory citation to an exemption created or afforded by statute."

As noted in the above section, F.S.S. 119.07 allows for a public record to be redacted if a valid exemption applies to a part of the record, but requires that the person who has custody of the record shall state the basis of the exemption applicable to the record and include the statutory citation to an exemption created or afforded by statute. Lt. Schoenbrod did not provide Director Fowler or the City Clerk, Cheri Schwab, any statutory citation to indicate an exemption.

"*119.071 General exemptions from inspection or copying of public records –*

(4) AGENCY PERSONNEL INFORMATION.—

2.a. The home addresses, telephone numbers, dates of birth, and photographs of active or former sworn law enforcement personnel or of active or former civilian personnel employed by a law enforcement agency, including correctional and correctional probation officers, personnel of the Department of Children and Families whose duties include the investigation of abuse, neglect, exploitation, fraud, theft, or other criminal activities, personnel of the Department of Health whose duties are to support the investigation of child abuse or neglect,

and personnel of the Department of Revenue or local governments whose responsibilities include revenue collection and enforcement or child support enforcement; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution."

As noted in the above general exemptions, the names of children of active or former sworn law enforcement personnel are exempt from F.S.S. 119.07(1), so it would be proper to redact such a name from an audio recording. It should be noted, however, that in the redacted copy of the audio recording provided to Cheri Schwab by Lt. Schoenbrod, he did not redact the portion at 05:43 where he said his own son's name.

"119.10 Violation of chapter; penalties.—

(1) Any public officer who:

(a) Violates any provision of this chapter commits a noncriminal infraction, punishable by fine not exceeding $500.

(b) Knowingly violates the provisions of s. 119.07(1) is subject to suspension and removal or impeachment and, in addition, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) Any person who willfully and knowingly violates:

(a) Any of the provisions of this chapter commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083."

Review of Florida State Statutes, Chapter 838.022 – Official Misconduct

A review was conducted of F.S.S. 838.022, which was referenced to Director Fowler by City Atty. Becky Vose.

"*838.022 Official misconduct.—*

(1) It is unlawful for a public servant or public contractor, to knowingly and intentionally obtain a benefit for any person or to cause unlawful harm to another, by:

(a) Falsifying, or causing another person to falsify, any official record or official document;

(b) Concealing, covering up, destroying, mutilating, or altering any official record or official document, except as authorized by law or contract, or causing another person to perform such an act; or

(c) Obstructing, delaying, or preventing the communication of information relating to the commission of a felony that directly involves or affects the government entity served by the public servant or public contractor.

(2) For the purposes of this section:

(a) The term "public servant" does not include a candidate who does not otherwise qualify as a public servant.

(b) An official record or official document includes only public records.

(3) Any person who violates this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084."

Due to Atty. Vose's belief that Lt. Schoenbrod sought a benefit by editing portions out of the audio recording, a review was conducted of the definition of "benefit", as pertains to this particular statute.

"*838.014 Definitions.—As used in this chapter, the term:*

(1) "Benefit" means gain or advantage, or anything regarded by the person to be benefited as a gain or advantage, including the doing of an act beneficial to any person in whose welfare he or she is interested, including any commission,

gift, gratuity, property, commercial interest, or any other thing of economic value not authorized by law."

Emailed Information from Brenda Lipply

On 09/07/2023 I spoke with Brenda Lipply of the Bureau of Archives and Records Management, Department of Library and Information Services, Florida Department of State, to obtain her opinion regarding whether or not the audio recording involved in this case would be a public record. Our conversation was via a telephone call. I emailed Brenda a few minutes after our telephone call and asked for her opinion via writing. Her response was as follows:

"Good afternoon Lt. Thomas,

Section 119.011(12), *Florida Statutes*, defines "public records" as:

… all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

Therefore, if the recording was made while conducting official business, then it would be considered a public record.

The location of where the recording took place does not matter, it's the content that determines if it's a public record.

And yes, any public record could contain exempt or confidential information. However, only the *Florida Statutes* can dictate what information is exempt from disclosure. When a record contains such information, only that portion of the record should be redacted. Section 119.011(13), *Florida Statutes*, defines "redact" to mean:

…conceal from a copy of an original public record, or to conceal from an electronic image that is available for public viewing, that portion of the record containing exempt or confidential information.

Therefore, the original public record should be kept intact, the redaction should be done on a copy of the record.

Please note, I am not an attorney. The above is not a legal interpretation of the *Florida Statutes* (which I am not qualified to provide) but is based on my 20 years of experience with records management and the guidance we provide to governmental agencies.

If I may be of further assistance, please let me know."

Review of DBS DPS Policy 5.1 Code of Conduct

The City of Daytona Beach Shores Department of Public Safety Departmental Standards Directive 5.1 revealed the following in section 5.1.5, under the heading of "UNLAWFUL CONDUCT":

"*5.1.5 Employees shall not commit any act or crime defined by state or federal law as a felony, whether chargeable or not*."

This portion of DBS DPS Standards Directive 5.1 was alleged to have been violated due to the potential violation of F.S.S. 838.022 Official Misconduct (3rd degree felony), as noted by City Attorney Gretchen "Becky" Vose. A determination that Lt. Schoenbrod in-fact violated F.S.S. 838.022 would constitute a violation of this departmental policy.

The City of Daytona Beach Shores Department of Public Safety Departmental Standards Directive 5.1 revealed the following in section 5.1.94, under the heading of "DEPARTMENT PROPERTY & EQUIPMENT":

"*5.1.94 Employees shall not steal, alter or forge or tamper with any kind of public safety record, report or citation. To this end, the unlawful or unauthorized removal of any record, card, report, letter, document, or other official file from the department is prohibited*."

This portion of DBS DPS Standards Directive 5.1 was alleged to have been violated by Lt. Schoenbrod by actions of him having edited/altered/tampered with the audio recorded conversation he had with Daniel Carrazana on 04/07/2023, with City Attorney Gretchen "Becky" Vose opining that the audio recording was a public record. A determination that Lt. Schoenbrod did in-fact edit/alter/tamper with a public safety record would constitute a violation of this departmental policy.

Review of DBS DPS Policy 71.4 Digital Recording Devices Recording System

A review of the policy revealed the following under the heading of “Purpose”:

“This policy is intended to provide officers with instructions on when and how to use digital recording devices so that officers may reliably record their contacts with the public in accordance with the law. Additionally, it provides for a secure and uniform method of recording and storing audio/video recordings for the Daytona Beach Shores Department of Public Safety.”

The language in that section appears to refer to any type of digital audio or video recording device which might be utilized by employees of the DBS DPS.

Under the heading of “Policy”, the following is written:

“It is the policy of this department that officers shall activate the digital recording devices when such use is appropriate for the proper performance of his or her official duties and are consistent with this policy and law. This policy does not govern the use of surreptitious recording devices used in undercover operations.”

It was noted in that section that reference was made to “the digital recording devices”, with a seeming emphasis on the word “the”, instead of making reference to “digital recording devices” as noted under the heading of “Purpose”.

Under the heading of “Procedure”, the first section, 71.4.1, stated “*No officer shall intentionally utilize an assigned video recording device in a manner that would bring discredit to the officer, the Daytona Beach Shores Department of Public Safety, or the City of Daytona Beach Shores.*” The very next section, 71.4.2, stated “*When beginning the tour of duty, officers will inspect the digital recording devices to ensure that they are receiving power and functioning properly.*” The notation of “the digital recording devices” in 71.4.2 appears to be in direct association to “assigned video recording device” referred to in 71.4.1, rather than referring to all types of digital recording devices. The association to a video recording device is further made in section 71.4.6, where it is stated “*When transporting a prisoner, the digital recording device will remain activated utilizing the vehicle-mounted digital recording devices.*” Section 71.4.7 also appears to reference a vehicle-mounted device, as it stated “*Members of the agency will not disconnect or disable to the digital recording devices.*”

Section 71.4.12 makes direct reference to body cameras by stating “*Florida Statute permits a law enforcement officer using a body camera to review the recorded footage from the body camera, upon his or her own initiative or request,*

before writing a report or providing a statement regarding any event arising within the scope of his or her official duties." The following section, 71.4.13, also appears to be in reference to body worn cameras (BWC), as it stated "*The digital recording devices will be properly placed in the provided docking station at the end of the tour of duty.*" AXON body worn cameras in use by the Port Orange Police Department and the DBS DPS get placed into a docking station at the end of an officer's shift, which allows the docked BWC to upload recorded audio/video recordings and recharge the battery.

Other sections of the policy refer to tagging recordings, which appears to make reference to use of Evidence.com, which is an electronic evidence management software program. While Evidence.com is utilized to store BWC videos, audio recording files made from cell phones and other types of digital audio recorders are able to be uploaded into Evidence.com and would be tagged and assigned an evidence category just as a BWC video would.

Lt. Schoenbrod was alleged to have violated section 71.4.17, under the heading of "Procedure", by having edited/altered/erased portions of the audio recorded conversation he had with Daniel Carrazana on 04/07/2023, and that he did so without having obtained written authorization to take such action. A review of section 71.4.17 revealed the following:

"*71.4.17 Members of the agency will not edit, alter, erase, duplicate, copy, share, or otherwise distribute in any manner digital recordings without prior written authorization.*"

A review of the policy in total revealed numerous references to procedures associated with a BWC program, but some of those areas could also apply to other types of digital audio recording devices. No definitions were observed in the policy, however, and it did not specifically identify procedures to be used for BWC recordings versus other types of digital recordings.

A determination that this policy applies to all manners of digital recording devices, and not solely to BWC recordings, would constitute a violation of this departmental policy if Lt. Schoenbrod did in-fact alter/edit/erase portions of said audio recording without authorization.

Review of the FDLE Investigative Report

On 08/31/2023, Sgt. Frank provided this investigator a copy of the completed FDLE investigative report, OR-14-0214, which was provided to the DBS DPS by FDLE SA Ratliff on 08/31/2023.

SA Ratliff noted in the report that he obtained a search warrant for Lt. Schoenbrod's city-issued cell phone and conducted a forensic analysis of the information contained within it. Regarding the audio-recorded conversation with Daniel Carrazana on 04/07/2023, SA Ratliff wrote that "A review of the original audio-recording revealed a total of eight minutes of the conversation was not captured." He further wrote "There were two distinctive areas not captured on the original audio-recording. The first area was noted at 02:34 to 02:40. The second area of was at 03:20 to 11:20. Both areas of the conversation were not captured on the original audio-recording."

SA Ratliff wrote that his research into the iPhone's Voice Memo application revealed that it has features to "Pause", "Replace", "Trim", and "Delete", and he described what each of the features does to the recording. Regarding the "Replace" feature, SA Ratliff wrote that it "…allowed for the replacement of the audio with a newly recording dialogue, but can also be used to delete information creating static noise if no sound was present. This feature does not save as a new file but simply alters the original format. The audio-recording is then saved as an original file." SA Ratliff further wrote "This allows a file to remain in all appearances saved as an original 'Unedited' audio file."

Regarding the "Trim" and "Delete" features, SA Ratliff wrote "The features allowed for the trimming and deletion of audio content. The features also allowed the file to remain in all appearances saved as an original 'Unedited' audio file."

SA Ratliff wrote the following regarding his examination of the file. "A total of eight minutes, six seconds of audio was missing from the original recording. The audio-recording appeared to be the original file. There were no deleted files associated with the audio-recording." "The eight minute, six seconds of missing audio conflicts with the five to six seconds of missing audio from the audio-recording Lieutenant Schoenbrod provided to the DBSDPS for the public records request." "The original audio-recording in its entirety was never recovered from the DBSDPS cellular phone, or provided in the public records request." SA Ratliff wrote that the review of the file showed two portions were altered using the "Replace" feature, with 02:34 to 02:40 containing static, and from 03:20 to 11:20 also containing static.

SA Ratliff noted that the extractions report indicated the file was created on 04/21/2023, and that due to the “Replace” feature altering the original file and format, instead of saving as a new file, it was likely that Lt. Schoenbrod used the “Replace” feature to alter the file on 04/21/2023.

SA Ratliff wrote the following at the end of the report’s “Extracted File Analysis” section. “The file DBSDPS provided to Carrazana in response to the public records request, on 07-06-23 was forty-two minutes, ten seconds in length. Upon being notified of the public records request, Lieutenant Schoenbrod used the ‘Trim’ and/or ‘Delete’ feature to alter the file again to reduce the static segments. This reduced the time of the missing conversation from minutes to seconds. This altered audio-recording was then provided to the DBSDPS for release in response to the public records request.”

During the FDLE interview conducted on 08/18/2023, Lt. Schoenbrod stated that he recorded the conversation with Daniel Carrazana for his own use, to protect himself in case Carrazana later attempted to accuse him of something, and did not believe it was a public record. Lt. Schoenbrod admitted that he later edited a portion of the recording where the previous investigation involving his son was discussed, and that he did so to protect his son. Lt. Schoenbrod stated that he used the “Replace” feature in the phone’s Voice Memo application to perform the redaction. Lt. Schoenbrod stated that he played the recording until he heard his son’s name mentioned, at which point he then activated the “Replace” feature and allowed the recording to continue for several seconds before stopping the “Replace” feature. Lt. Schoenbrod stated he was uncertain of exactly how much of the recording was deleted, but believed it was only one to three minutes of the original recording that was deleted. SA Ratliff wrote “Lieutenant Schoenbrod admitted he thought he was only deleting information pertaining to his son, but did not know specifically what portions of the conversation he actually deleted.” SA Ratliff further wrote “Lieutenant Schoenbrod admitted he had over twenty three years of employment with the DBPSDPS, and claimed he had not received any training regarding public records.”

The FDLE interview with Director Fowler was consistent with information previously provided to this investigator by Director Fowler. Of note, however, SA Ratliff wrote Director Fowler acknowledged Lieutenant Schoenbrod would have minimal responsibility over public record requests. Lieutenant Schoenbrod was aware of the public record process due to his involvement in the previous incident and resulting investigation. All records were to be forwarded to the DBSCC for review by the DBSCA before being released to the public.”

The FDLE interview with Daniel Carrazana was consistent with information previously provided to this investigator by Daniel Carrazana. During the FDLE interview, Daniel confirmed that several sections of the conversation were missing from the recording.

Interviews

Interview with Director Michael Fowler

On 07/11/2023, at about 10:35hrs, I conducted a sworn recorded interview with Director Michael Fowler in the Chief's conference room at the Port Orange Police Dept. The following is a synopsis of that interview.

Director Fowler stated that public records requests (PRRs) can come in either through his agency's Records section or through the City Clerk's office, but it was his understanding that the request for the audio recording in this case came in through the City Clerk. Director Fowler stated that at some point he was made aware that a request had been made by Daniel Carrazana, a former employee of the Daytona Beach Shores Dept. of Public Safety (DBS DPS), for a copy of an audio recording of a conversation he had with Lt. Schoenbrod earlier in the year.

Director Fowler stated the City Clerk, in conjunction with the City Attorney, would have been responsible for processing the PRR and making redactions to the audio recording, if any would have been deemed necessary. He added that some of the things Lt. Schoenbrod and Daniel Carrazana discussed on the recording were subject to a temporary court order and not subject to public records. Anything related to that case would have needed to be vetted by the City Attorney then released by the City Clerk. Director Fowler confirmed that it would not have been Lt. Schoenbrod's responsibility to do any editing of the recording.

Director Fowler stated he did not know the date the PRR was made, but that he was made aware of it on Friday 06/30/2023. Director Fowler confirmed that he contacted Lt. Schoenbrod on 06/30/2023, made him aware that the request for the recording had been made, and instructed him to get a copy of the recording to the City Clerk, so she could then get it to the City Attorney for vetting prior to its release. Director Fowler stated that he did not receive a copy of the recording, has not heard the audio recording himself, and stated that he did not have the ability to edit the copy sent to the City Clerk.

When asked if he knew who provided the copy of the recording to Daniel Carrazana, Director Fowler stated he was unsure if Daniel ever received a copy of the recording. Director Fowler was asked who discovered that the audio recording had been edited. He replied that he spoke with Lt. Schoenbrod on 07/03/2023 via telephone, at which time Lt. Schoenbrod stated he deleted portions of that audio recording several weeks earlier because he and Daniel Carrazana discussed an incident involving one of his (Schoenbrod's) children, and Schoenbrod didn't want the parts of the recording involving his child to be "out there" in the public. Lt. Schoenbrod then stated that he did everything he could, but he could not get back to the original recording of the conversation.

Director Fowler then instructed Lt. Schoenbrod to go to the City Clerk, give her a copy of what he had and tell her what happened so the City Attorney could review it. Director Fowler confirmed that Lt. Schoenbrod told him that he edited out portions of the audio recording several weeks prior to the PRR having been made by Daniel Carrazana. Lt. Schoenbrod told Director Fowler that he (Schoenbrod) was trying to protect his family and had no idea that anybody would ever request a copy of the recording. Director Fowler confirmed that Lt. Schoenbrod stated he did not have an unedited copy of the recording any longer. Director Fowler asked Lt. Schoenbrod to get with their I.T. department to see if they could get a complete record that could be used to fill the PRR, but didn't believe success was achieved in retrieving an unedited copy.

Director Fowler stated Lt. Schoenbrod called him again and advised that he consulted with his private attorney about it. The attorney presented an opinion letter to the City Clerk stating his belief that the audio recording was not a public record. Director Fowler contacted City Attorney Becky Vose, told her that the City Clerk would forward her a copy of the recording, and that he wanted her legal opinion regarding as to whether or not the recording was a public record. Director Fowler stated Atty. Vose listened to the recording and told him it was 100% a public record.

Director Fowler stated there have been no issues with other PRRs handled by Lt. Schoenbrod in the past. The interview was concluded at 10:45hrs.

<u>Interview with Cheri Schwab, City Clerk, City of Daytona Beach Shores</u>

On 07/12/2023, at about 13:58hrs, I conducted a sworn recorded interview with Cheri Schwab in her office at the City of Daytona Beach Shores City Hall. The following is a synopsis of that interview.

Cheri Schwab stated that the City Clerk's office sometimes handles PRRs related to the Dept. of Public Safety (DPS), and that sometimes they are received by the DPS Records Clerk, Rachel Rizza. Cheri was asked what steps she takes upon receiving a PRR for a record maintained by the DPS, and replied that she would either contact Director Fowler or Rachel Rizza and advise the item need for the PRR. Cheri stated that any redactions needed should be made by the DPS Records Clerk, Rachel Rizza, not by the sworn officer who had been maintaining the record. I asked Cheri if, to her knowledge, and aside from this present case, any sworn member of the DBS DPS had previously provided a public record to the City Clerk's office that the sworn employee had themselves redacted, to which Cheri replied "No." Cheri stated that if such a situation occurred, she would ask the employee why they did it, what exemption was being used for it, and would want the original version. Cheri stated that, to her knowledge, Lt. Schoenbrod had never previously provided the City Clerk's office with a public record that he completed the redaction for.

Cheri stated she received the PRR from Daniel Carrazana, which Daniel sent from his personal email account to Cheri's work email account. Cheri provided a copy of the email, which showed the date of the request as having been 06/29/2023 @ 08:57hrs. Cheri stated she then contacted Director Fowler, made him aware of the PRR and asked for him to handle telling Lt. Schoenbrod to provide the recording.

On Monday 07/03/2023, at some point in the afternoon, Lt. Schoenbrod arrived at her office with a USB drive containing the recording and a letter from his attorney stating why the attorney didn't believe the recording should be released. When asked if Lt. Schoenbrod said anything to her about the recording, Cheri replied "Yes, he did." She then stated that Lt. Schoenbrod told her the recording was roughly 42-45 minutes long, that he created it on his cell phone while Daniel was in his office sometime after the shift briefing. Cheri couldn't remember if Lt. Schoenbrod said anything to her about having left something out of the recording. Cheri stated that she did not listen to the recording. She uploaded the recording into her computer and sent it to the City Attorney for her to listen to it and determine if it could be released or not. Cheri stated that Lt. Schoenbrod made statements to her that he could alter and edit, but she could not say for certain that he actually told her that he did it to the recording.

Cheri attempted to email the audio recording to Atty. Vose but the file was too large to be sent via email, so she contacted Angie Hawkins from the city's I.T. Dept. to assist her in uploading it to the OneDrive. Once Angie was able to upload the file to the OneDrive, Angie copied the link to the file and Cheri was able to put that link in her email to the City Attorney so she could review the

recording. Cheri provided a copy of her email to City Atty. Becky Vose, which was sent on 07/03/2023 @ 15:18hrs and showed the OneDrive link to the audio recording. Cheri stated that she (Cheri) did not redact or edit anything from the audio recording. When asked if anyone else had access to the audio recording, Cheri said "Just Angie Hawkins", and reiterated that Angie only copied the file from the USB drive into the OneDrive account with Cheri's name on it while Cheri was present. Cheri stated that Atty. Vose later told her during a telephone conversation that it was okay to release the audio recording to Daniel Carrazana, which Cheri then did via email. Cheri provided a copy of her email to Daniel, dated 07/06/2023 @ 13:27hrs, in which she provided Daniel a link to the audio recording.

The interview was concluded at 14:15hrs.

Interview with Angella Hawkins, City of Daytona Beach Shores I.T. Dept.

On 07/12/2023, at about 16:26hrs, I conducted a sworn recorded interview with Angella Hawkins via telephone. The following is a synopsis of that interview.

Angella verified that she is employed by the City of Daytona Beach Shores in the I.T. Department and confirmed that she assisted Cheri Schwab in uploading an audio recording. Angella stated the audio recording was a large file that she knew wouldn't be able to go into Outlook, so she shared the file to the OneDrive, instead. As noted in Cheri's interview, Cheri was then able to place a link to the OneDrive copy of the recording into the email.

Angella confirmed that the OneDrive account where the audio recording was copied to is maintained by the City of Daytona Beach Shores. When asked who has access to the account where that file was copied to, Angella stated that Cheri is the only person who is able to see it, but it could be located if a search was conducted via Office 365. Angella stated that their I.T. Dept. doesn't have access to employee's OneDrive accounts unless the employee provides the password for it.

Angella stated that she did not listen to the audio recording she assisted in getting uploaded into OneDrive and did not do any editing to the recording. Angella stated she only assisted with the upload of the audio recording, did nothing else with the recording, and had no contact with anyone else regarding that particular audio recording. The interview was concluded at 16:33hrs.

Interview with New Smyrna Beach Police Officer Daniel Carrazana

On 07/13/2023, at about 06:57hrs, I conducted a sworn recorded interview with Ofc. Daniel Carrazana at the New Smyrna Beach Police Dept. The following is a synopsis of that interview.

Daniel Carrazana confirmed that he received a copy of the audio recording from Cheri Schwab via email. He stated that he didn't listen to the entire recording, but just the first minute to minute and a half at the beginning of it to make sure the recording was able to be played. I explained to Daniel that I would need for him to listen to the complete recording and for him to advise if he noticed any missing portions of it. I then played the recording on my SurfacePro for Daniel and I to listen to together.

When the recording reached the 02:32 mark, Daniel's facial expression changed and he stated "Yeah, obviously you can hear the cut-out section." Daniel stated that at that point during their conversation Lt. Schoenbrod was adversarial with him and made reference to Daniel having tried to get his (Schoenbrod's) son taken away from him and to have him and Sgt. Long thrown in jail, or fired and thrown in jail, something to that effect.

I backed the recording up a little bit and let it replay again beyond the 02:32 mark. When it reached the 03:13 mark, Daniel's facial expression changed again, and he pointed at my computer and said "And then there's obviously another blank there." Daniel added that he believed Lt. Schoenbrod made reference at that point to something he said to DCF during his interview that if his son had straightened out his hands, that the handcuffs would have fallen off.

I played the remainder of the audio recording and Daniel stated, to the best of his knowledge, he didn't believe anything else had been redacted or changed. He reiterated that the two previously identified areas had "a hard cut and then a restart." The interview was concluded at 07:57hrs.

Interview with Attorney Gretchen "Becky" Vose,

On 07/26/2023, at about 10:33hrs, I conducted a sworn recorded interview with Atty. Vose via telephone. The following is a synopsis of that interview.

Atty. Vose is a private attorney and stated she fulfills the duties of City Attorney for the City of Daytona Beach Shores through a contract with her law firm. When

asked how she became familiar with the public records request for the audio recording made by Lt. Schoenbrod, Atty. Vose said she didn't specifically remember, but that it was probably from a phone call from Cheri Schwab (the City Clerk), Kurt Swartzlander (City Manager), or Director Fowler. Atty. Vose stated she did have a telephone conversation with Director Fowler, however, and that Director Fowler waived his attorney-client privilege, thus allowing her to discuss the conversation with this investigator.

Atty. Vose stated that Director Fowler told her about the public records request and that he spoke with Lt. Schoenbrod about it, with Lt. Schoenbrod having told Director Fowler that he (Schoenbrod) had altered the recording in a minor way in order to keep some information out of it regarding his son. Atty. Vose stated she believed she asked Director Fowler if there was an untampered with copy of the recording and was told there was not one. Atty. Vose stated she told Director Fowler she believed that was a violation of law. Atty. Vose stated she received a copy of the recording and listened to it, but could not tell whether or not anything had been removed from the recording. Atty. Vose stated she relayed that information to Director Fowler and told him she believed the entire recording to be a public record due to the things Lt. Schoenbrod and Det. Carrazana spoke about during their conversation.

Atty. Vose confirmed that she offered guidance to Director Fowler regarding her belief that editing of the audio recording would be a violation of F.S.S. 838.022 Official Misconduct. When asked why she felt that particular statute was applicable, Atty. Vose replied by quoting the language contained in the statute, saying "Lt. Schoenbrod is definitely a public servant", then stating "…and what I think he did was alter an official record or an official document." Atty. Vose stated she and Director Fowler spoke about "…the necessary requirement for to be a knowingly and intentionally obtain a benefit for any person." Atty. Vose stated she believed, from her conversation with Director Fowler, that Lt. Schoenbrod removed part of the recording to protect and benefit his son. Atty. Vose stated that when she listened to the recording provided her for review, she heard Lt. Schoenbrod's son's name mentioned and wondered why he didn't also delete that. She reiterated that she was told second-hand by Director Fowler that Lt. Schoenbrod had removed it hoping to protect his son from something, that he did it to benefit his son in some way.

When asked if there was anything she felt was important that I either had not asked, or that we had not discussed, Atty. Vose stated the recording contained "discussion about public business, operations, that sort of thing, particularly towards the end, although the entire recording related to things that were going

on in the Daytona Beach Shores Public Safety Department." When asked if she had any direct contact with Lt. Schoenbrod regarding the recording, Atty. Vose stated that she has never met him or talked with him on the phone.

The interview was concluded at 10:48hrs.

Interview with Lieutenant Michael Schoenbrod, Daytona Beach Shores DPS

On 09/19/2023, at about 11:27hrs, I conducted a sworn recorded interview with Lt. Schoenbrod in my office at the Port Orange Police Dept. Lt. Schoenbrod was accompanied by Attorney Michael Lambert. The following is a synopsis of that interview.

I read the Subject Employee Statement to Lt. Schoenbrod, who stated he understood what I read to him. I then read the Garrity Warning to Lt. Schoenbrod, who stated he understood what I read to him and had no questions about what I read to him. Lt. Schoenbrod and I then each signed the Garrity Warning form. Lt. Schoenbrod was later provided a copy of the signed documents. Prior to any questioning, I asked Lt. Schoenbrod if he had an opportunity to review the material I provided him. He replied that he did and had no questions about any of the material.

Lt. Schoenbrod was asked if he was on-duty when he recorded his conversation with Daniel Carrazana on 04/07/2023. Lt. Schoenbrod replied that he was at work, that his start time doesn't typically begin until 08:00hrs, but that he was there at about 05:50hrs that day. Lt. Schoenbrod confirmed that he was there early in order to address the shift briefing which began at 06:00hrs and that his conversation with Daniel occurred immediately following that shift briefing.

When asked if he and Daniel discussed work related items during that conversation, Lt. Schoenbrod stated "Yes, at the end of it." When asked if they discussed things he believed were not work related, Lt. Schoenbrod stated "Yes, the majority of it…the majority of the conversation, yes, was not work related." The items he felt were not work related were in reference to the previous DCF investigation and the previous incident about him (Schoenbrod) disciplining his child.

Lt. Schoenbrod confirmed that he notified Director Fowler and Sgt. Frank that he recorded his conversation with Daniel Carrazana shortly after it occurred. When asked why he notified them, and if it was required by agency policy, Lt. Schoenbrod replied "No." He went on to advise that Director Fowler mandated

that he talk to the shift, so he did so. Afterwards, he let Director Fowler know that he spoke to the shift, that Det. Carrazana requested to speak with him in private after the briefing, and that he recorded their conversation.

Lt. Schoenbrod confirmed that when the PRR was made for the recording, he informed Director Fowler that he previously redacted it. Lt. Schoenbrod stated he told Director Fowler that it was not a public record, that he made the recording for himself, and that he redacted his child's information out of it. When asked if he received authorization in writing, or otherwise, to redact the audio recording before he did so, Lt. Schoenbrod replied "No." When asked who he would have been required to get authorization from in order to do that, Lt. Schoenbrod replied "Nobody. Nobody." He added "That was my personal recording, it was not official business, it was not made for transaction, it wasn't made for anybody else to listen to." Lt. Schoenbrod stated he didn't download the audio recording anywhere, that nobody listened to it for months, that it was made for his own use, was his personal belonging and that he wouldn't need to get permission from anyone.

I asked Lt. Schoenbrod who would need to grant permission to redact a recording he made during the course of his official duties. He replied that their policy only states "without prior written authorization." He added that, to his knowledge, during his 23 years with the DBS DPS, nobody has ever received prior written authorization from anybody to redact or alter anything. Lt. Schoenbrod said that he, as a supervisor, had never received a request from one of his employees for such authorization, and that he has never made such a request for authorization to redact something. Lt. Schoenbrod stated "It's our standard operating procedure that we are authorized, with implied consent of our Chief, our previous Chief, that we just…if we need to redact something…we do it." He reiterated that it was the common practice and standard operating procedure that nobody asks or receives permission.

I asked Lt. Schoenbrod if he had been tasked with filling a PRR during any of the 23 years he's worked for the DBS DPS. He replied that the only time he had been asked about public records was when a former officer named Murphy made a request for a "phone dump" of their city phones. Lt. Schoenbrod stated that during the entire time he's been employed by the DBS DPS, he's been allowed to use his city-issued cell phone for personal use and never had a personal cell phone. Lt. Schoenbrod stated that when Ofc. Murphy made the request for the phone dump, he (Schoenbrod) was contacted either by Cheri Schwab or the DPS Director, and was asked how long he thought it would take for him to go through his issued cell phone to redact all of his personal information.

Lt. Schoenbrod was asked if he had ever been asked to provide a copy of a police report, to which he replied “No.” When asked if that would only go to the Records Section, he replied in the affirmative, unless it was an officer complaint, at which point he would provide a copy of the body camera video or report. When asked if it would have been his responsibility to make redactions in that case, Lt. Schoenbrod replied “No”, but added that if there’s something on there involving juveniles, or something like that, then they would be redacted.”

I asked Lt. Schoenbrod why he removed the portions of the audio recording involved in this investigation. Lt. Schoenbrod replied that the first section where it sounds as though a couple seconds was removed was actually the continuation of one sentence, and that he didn’t know why that happened. He stated that sentence was complete. He went on to say that he only redacted one part, which starts when he was talking about the DCF investigation. He reiterated what he told the FDLE investigator, that he didn’t remove a specific timeframe from the recording, that he just let it play. Lt. Schoenbrod stated he tried to keep the spirit of the conversation between he and Daniel Carrazana intact on the recording. He stated he only removed the portion that was confidential and was related to the DCF investigation. Lt. Schoenbrod added “I took that part out, and it ran over a little bit into, of the public records and me saying So if you know who’s doing it…” I pointed out to Lt. Schoenbrod that there were two other portions of the audio recording where his son’s name was mentioned, and asked why he didn’t redact those portions of the recording. Lt. Schoenbrod stated “I overlooked it. If I woulda heard it, I would have…I didn’t mean to leave it in there.” He stated it was left in there by accident.

Lt. Schoenbrod stated he had used the Voice Memo feature on his issued cell phone to make audio recordings, but had never previously used the editing features within it. He stated he was not familiar with the editing features before he used them, and had not researched how the individual editing features worked or how they would affect the recording. Lt. Schoenbrod replied “So, no, not until afterwards, when I was trying to get it back.” When asked if he knew that the edited version would essentially be saved as being the original file, Lt. Schoenbrod replied that he didn’t know how it was done, if it was like an overwrite, if it was saved somewhere in a Cloud storage, or if it just stopped it. He reiterated that he didn’t know how that function worked. When asked why he didn’t just make a copy of the original, save the original intact and make any redactions to the copy, Lt. Schoenbrod replied that he didn’t believe it was a public record, that it was his personal protection against Daniel Carrazana. Lt. Schoenbrod then read aloud the Florida State Statute definition of a public record and stated the following: “I didn’t make it (audio recording) pursuant to law, no…to ordinance, no…or in connection of transaction of official business. There

was never meant to be a transaction of business. I never let anybody listen to it. Nobody. That was solely for me, nobody else." He stated it was never in his mind to save a copy in one place and redact another copy of it. I asked Lt. Schoenbrod if it ever occurred to him, since Daniel knew their conversation was recorded, that Daniel might later ask for a copy of the recording. Lt. Schoenbrod replied "No."

When asked to describe the process used by the DBS DPS when handling PRRs, Lt. Schoenbrod stated PRRs would typically go to the Records Division or Cheri Schwab, the City Clerk. When asked if the Records Div. would be responsible for making any necessary redactions, Lt. Schoenbrod replied "Yeah, so if it's in their possession and they have it, they're the ones redacting." Lt. Schoenbrod then referred to the earlier PRR discussion regarding the "dump" of his phone, and that either the Director or City Clerk went to him directly with the request and told him to redact personal items himself.

I pointed out to Lt. Schoenbrod that from the interviews with Director Fowler, Cheri Schwab, Becky Vose, it was learned that, due to the prior DCF investigation and PRRs made from it, a process was put in place regarding any PRRs made that might involve information related to that case. I explained that the item/record requested was to be provided to Cheri Schwab, who in-turn would provide it to Becky Vose for vetting and determination of what needed to be redacted prior to release. When asked if that was correct, Lt. Schoenbrod replied that he heard that in Director Fowler's interview, but that information was never passed down to him (Schoenbrod). I asked Lt. Schoenbrod "So, you weren't made aware that anything that might be related to that DCF investigation has to be given to the City Clerk, who would then give it to the City Attorney? Lt. Schoenbrod replied "No." He said it wasn't until the day Director Fowler told him the audio was requested, which Lt. Schoenbrod stated he told Director Fowler he felt was not a public record, with Director Fowler then saying it wasn't for Lt. Schoenbrod to decide, that it was up to the City Attorney, and he was directed to turn the recording over.

When asked if he expected to obtain a benefit from redacting the audio recording, Lt. Schoenbrod replied "No." He reiterated that he did the redaction a couple weeks after the recording was made, which was before the PRR for the recording was made by Daniel Carrazana, and that he only did it to prevent his son's information from being released again.

I asked Lt. Schoenbrod if there was anything he felt was relevant to the investigation that I either had not asked, or that we had not already discussed. He pointed out his belief that there was no probable cause to substantiate the

allegation of having committed a felony in violation of F.S.S. 838.022. He further pointed out that DBS DPS Policy 71.4 refers to the use of AXON body cameras, body camera videos, and AXON car videos. He stated his belief that the policy has nothing to do with recordings from cell phones or the type of digital audio recorder I was using to record his interview. Regarding the allegation associated with the Code of Conduct. Lt. Schoenbrod stated his belief that it didn't apply, because the audio recording at issue in this case is not an official file. He reiterated that they have implied consent from the Chief that they can delete certain things when they're no longer needed. He added that there are policies maintained by the agency that are understood and accepted by the Chief and everyone else that they are not followed. One example he gave was a policy prohibiting officers from entering an establishment unless it's a police related task, thereby prohibiting officers from getting a coffee from the 7-11 or having lunch at a restaurant. He stated it's violated every day, but that it's accepted and is part of their standard operating procedure. Lt. Schoenbrod added that he would never have intentionally destroy a public record or violate the policies in the allegations against him.

Lt. Schoenbrod had nothing further to add and the interview was concluded at 12:17hrs.

Summary of Evidence

- Letter from DBS PSD Director Fowler to POPD Chief Manuel Marino
- Memorandum from Director Fowler tolling PSI 2023-07-0001
- Incident Report #SH230700023
- Incident Property Sheet for case #SH230700023
- Property Chain of Custody for case #SH230700023
- Audio recorded conversation between Lt. Schoenbrod and Det. Carazana
- F.S.S. 119.07 Inspection and copying of records; photographing public records; fees; exemptions
- F.S.S. 838.014 Definitions
- F.S.S. 838.022 Official Misconduct
- Audio recordings provided by DBS PSD Sgt. Frank
- Interviews
- Emails
- FDLE Investigative Report

Investigative Summary

Lt. Schoenbrod used his department-issued cellphone to audio record his 04/07/2023 conversation with Daniel Carrazana in his (Schoenbrod's) office at the DBS DPS. At that time, Daniel Carrazana was employed by the DBS DPS as a Detective.

On 06/29/2023, after no longer working for the DBS PSD, Daniel Carrazana made a PRR for the audio recording made by Lt. Schoenbrod. On 06/30/2023 Director Fowler informed Lt. Schoenbrod of the PRR and directed him to provide a copy of the audio recording to the City Clerk.

Lt. Schoenbrod informed Director Fowler on 07/03/2023 that he deleted portions of the audio recording that referred to his son weeks earlier, prior to the PRR being made, and that he no longer had an unedited copy of the audio recording. Director Fowler directed Lt. Schoenbrod to provide what he had to the City Clerk, who would in-turn forward it to the City Attorney for vetting prior to release.

DBS City Attorney Gretchen "Becky" Vose reviewed the audio recording and advised Director Fowler that she believed the entire recording was a matter of public record. She further advised Director Fowler that she believed the editing of the recording by Lt. Schoenbrod was a violation of F.S.S. 838.022 Official Misconduct (felony).

On 07/03/2023, Director Fowler instructed DBS PSD Sgt. Frank to open a Professional Standards Investigation. Lt. Schoenbrod was notified of the investigation and Director Fowler placed him on administrative leave on this date.

Director Fowler contacted FDLE and requested they conduct a criminal investigation regarding the alleged deletion of a public record. On 07/06/2023, FDLE SA Ratliff arrived at the DBS PSD facility and met with Sgt. Frank, who turned over Lt. Schoenbrod's department-issued cell phone.

Director Fowler stated during his interview that some of the things Lt. Schoenbrod and Daniel Carrazana discussed on the recording were subject to a temporary court order, and not subject to public records, but that it would not have been Lt. Schoenbrod's responsibility to do any editing of the recording.

Director Fowler stated the City Clerk, in conjunction with the City Attorney, would have been responsible for processing the PRR and making any necessary redactions to the audio recording.

During this investigator's review of the audio recording, two areas of the recording were identified as having a change in sound consistent with the recording having been edited/altered. The first area was at 02:32 and the second at 03:13.

This investigator's review of the audio recording also revealed two times where Lt. Schoenbrod mentioned his son's name and did not edit it out of the recording. The first time was at 05:43, and the second time was at 19:48.

Cheri stated during her interview that any redactions needed to be made to a public record should not be done by the sworn officer who had been maintaining the record. Cheri stated that if an employee did a redaction themselves, she would ask the employee why they did it, what exemption was being used for it, and would want the original version.

The audio recording was played for Daniel Carrazana, who identified two portions of the recording as having been edited. Daniel stated that in the first section, Lt. Schoenbrod was adversarial with him and made reference to Daniel having tried to get his (Schoenbrod's) son taken away from him and to have him and Sgt. Long thrown in jail, or fired and thrown in jail, something to that effect.

In the second section Daniel identified as having been edited, he believed Lt. Schoenbrod made reference at that point to something he said to DCF during his interview that if his son had straightened out his hands, that the handcuffs would have fallen off.

In the investigation completed by FDLE, SA Ratliff conducted a forensic analysis of Lt. Schoenbrod's city-issued cell phone. SA Ratliff was able to determine a total of eight minutes and six seconds of the conversation was not captured. He wrote "There were two distinctive areas not captured on the original audio-recording. The first area was noted at 02:34 to 02:40. The second area of was at 03:20 to 11:20."

SA Ratliff wrote that the review of the file showed the two portions were altered using the "Replace" feature on 04/21/2023, with 02:34 to 02:40 containing static, and from 03:20 to 11:20 also containing static. He noted, however, that the missing portions of the audio recording provided for the PRR only amounted to six seconds.

SA Ratliff further wrote "Upon being notified of the public records request, Lieutenant Schoenbrod used the 'Trim' and/or 'Delete' feature to alter the file again to reduce the static segments. This reduced the time of the missing

conversation from minutes to seconds. This altered audio-recording was then provided to the DBSDPS for release in response to the public records request."

SA Ratliff was unable to recover an un-edited version of the audio recording from Lt. Schoenbrod's city-issued cell phone, as the iPhone's Voice Memo editing features saved the changes as being the original file.

Lt. Schoenbrod stated during his interview by this investigator that he was at work on 04/07/2023 when he recorded the conversation with Daniel Carrazana, with that recording having taken place immediately following Lt. Schoenbrod addressing the patrol shift at their briefing.

Lt. Schoenbrod stated he made the recording for his own use, as protection in case Daniel later made an accusation of any inappropriate conduct during their conversation. Lt. Schoenbrod stated he didn't believe at that time that the recording was a public record, and that he still doesn't believe it's a public record.

Lt. Schoenbrod stated he only removed the portion that was confidential and was related to the DCF investigation. Lt. Schoenbrod added "I took that part out, and it ran over a little bit into, of the public records and me saying So if you know who's doing it…"

When asked if he expected to obtain a benefit from redacting the audio recording, Lt. Schoenbrod replied "No." He reiterated that he did the redaction a couple weeks after the recording was made, before the PRR for the recording was made, and that he only did it to prevent his son's information from being released again.

Lt. Schoenbrod stated he did not receive prior written authorization to delete portions of the audio recording, stating that in his 23 plus years of service with the DBS DPS he has never received written authorization to make redactions. He stated it's part of their standard operating procedure to make a redaction, if needed.

Lt. Schoenbrod was asked if he had ever been asked to provide a copy of a police report, to which he replied "No." When asked if that would only go to the Records Section, he replied in the affirmative, unless it was an officer complaint, at which point he would provide a copy of the body camera video or report.

When asked if it would have been his responsibility to make redactions in that case, Lt. Schoenbrod replied "No", but added that if there's something on there involving juveniles, or something like that, then they would be redacted."

Lt. Schoenbrod stated he only deleted one portion of the audio recording, which he said involved the previous DCF investigation related to discipling his son. He stated the first portion that appeared to be redacted was actually a complete sentence, and didn't know why it sounded that way. That is in contradiction to the forensic analysis of the phone performed by FDLE.

When asked why he didn't redact the other two times when he mentioned his son's name, Lt. Schoenbrod stated he simply overlooked them and did not mean to leave them in the recording.

Lt. Schoenbrod stated he had never used the phone's Voice Memo editing features prior to when he edited the recording from this case. He stated that before using the features, he did not do any research into how the editing worked, or what effect it would have on the recording, or how it would save the changes.

When asked why he didn't make a copy of the original file and only redact the copy, leaving the original unedited, Lt. Schoenbrod replied that he didn't believe it was a public record, that it was his personal protection against Daniel Carrazana.

He then referred to a definition of public records in Florida Statute and stated "I didn't make it (audio recording) pursuant to law, no…to ordinance, no…or in connection of transaction of official business. There was never meant to be a transaction of business. I never let anybody listen to it. Nobody. That was solely for me, nobody else."

Brenda Lipply of the Bureau of Archives and Records Management, Department of Library and Information Services, Florida Department of State, was consulted regarding her opinion as to whether or not the audio recording would be considered a public record. Brenda stated she has over 20 years of experience in records management and provides guidance to governmental agencies.

Brenda Lipply advised "Section 119.011(12), *Florida Statutes*, defines "public records" as…sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency. Therefore, if the recording was made while conducting official business, then it would be considered a public record."

Brenda Lipply further stated Section 119.011(13), *Florida Statutes*, defines "redact" to mean:…conceal from a copy of an original public record, or to conceal

from an electronic image that is available for public viewing, that portion of the record containing exempt or confidential information. Therefore, the original public record should be kept intact, the redaction should be done on a copy of the record."

It should be noted again that Lt. Schoenbrod stated he was at work when the recording was made and discussed work related items with Daniel Carrazana during the conversation. The review of the audio recording revealed that Lt. Schoenbrod provided instructions to Daniel Carrazana regarding an email Carrazana was to send him about a SWAT related duty Carrazana has.