

# REPORT OF INVESTIGATION



Complaint Numbers 09-091

## NOTICE CONCERNING CONFIDENTIALITY

This report of investigation concerns an alleged violation of Chapter 112, Part III, Florida Statutes, or other breach of public trust under provisions of Article II, Section 8, Florida Constitution. The Report and any exhibits may be confidential (exempt from the public records law) pursuant to Section 112.324, Florida Statutes, and Chapter 34-5, F.A.C., the rules of the Commission on Ethics. Unless the Respondent has waived the confidentiality in writing, this report will remain confidential until one of the following occurs: (1) the complaint is dismissed by the Commission; (2) the Commission finds sufficient evidence to order a public hearing; or (3) the Commission orders a public report as a final disposition of the matter.

STATE OF FLORIDA  
COMMISSION ON ETHICS  
Post Office Drawer 15709  
Tallahassee, Florida 32317-5709

## REPORT OF INVESTIGATION

TITLE: Bill McCollum  
Attorney General, State of Florida  
Tallahassee, Florida

COMPLAINT NOS.: 09-091  
Exhibits A through E

INVESTIGATED BY: Thomas W. Reaves  
Thomas W. Reaves  
H. B. Jackson  
H. B. Jackson

Distribution: Commission on Ethics  
Respondent  
Advocate  
File

Releasing Authority: Philip Clayton  
Executive Director  
October 19, 2009  
Date

\* \* \* \*

REPORT OF INVESTIGATION  
COMPLAINT NO. 09-091

(1) Mr. Kenneth Quinell of Tallahassee alleges that Mr. Bill McCollum, while serving as the Attorney General of the State of Florida, violated the Code of Ethics for Public Officers and Employees. It is alleged that the Respondent misused his position by using State aircraft for commuting purposes or for other than official State business.

(2) The Executive Director of the Commission on Ethics determined that, based upon the information provided in the complaint, the allegations were sufficient to warrant a preliminary investigation to determine if there is probable cause to believe the Respondent violated Section 112.313(6), Florida Statutes (Misuse of Public Position).

(3) The Respondent, who was interviewed in the presence of his attorney, Mr. Richard Coates, related that he was elected as the Attorney General in November 2006 and took office in January 2007. Attorney General McCollum's duties and responsibilities are reflected in his biography (appended as Exhibit A), which was printed from the internet website of the Office of the Attorney General of Florida.

ALLEGED USE OF STATE AIRCRAFT FOR COMMUTING PURPOSES

(4) The Complainant alleges that the Respondent misused his position by using State aircraft for commuting purposes, including "diverting state planes to pick him up or drop him off near his home in Sanford, Florida." The Complainant maintains that such use of State aircraft is prohibited by Florida Statutes and that the Respondent's actions clearly reflect a violation of Section 112.313(6), Florida Statutes.

Note: The investigation revealed that, actually, the Respondent and his wife own a home in Longwood, Florida, which is situated between Sanford and Orlando.

(5) The Respondent advised that as Attorney General, he is required by Florida Statutes to maintain his primary office, as well as a residence, in Tallahassee. He acknowledged that he and his wife (Ingrid McCollum) also own a home in Longwood, as well as real estate in nearby Brooksville. He indicated that his wife primarily resides at the home in Longwood and that his 94 year old father lives on the property in Brooksville. For those reasons, he added, he prefers to be in Longwood whenever possible, and he acknowledged that he travels there as often as his schedule permits.

(6) The Respondent related that he prefers to drive his personal automobile whenever he travels between Tallahassee and Longwood. However, he noted that driving is not always the best or most efficient means for such travel, and he acknowledged that there have been occasions on which State aircraft (from the Department of Management Services' Executive Air Pool) have picked him up or dropped him off at airports located in Sanford and Orlando, which are the airports nearest to his Longwood home. However, he asserts that there were very few, if any, occasions on which he flew

on State aircraft from Tallahassee directly to the Sanford or Orlando airports, and very few, if any, occasions on which a Department of Management Services (DMS) flight was dispatched from Tallahassee to pick him up at the Sanford or Orlando airports for an immediate return directly back to Tallahassee. The Respondent maintains that all of his flights on State aircraft, including flights into or out of the Sanford and Orlando airports, served public purposes and were not indicative of commuting or any other personal use of the aircraft. In short, Attorney General McCollum denies having violated Section 112.313(6), Florida Statutes, in any way concerning this matter.

(7) Mr. Mike McClure, Operations Manager of the DMS Bureau of Executive Aircraft Operations, confirmed that during the period of time between January 2007 and June 2009, the Respondent routinely flew on State aircraft from the State's Executive Air Pool. He provided records reflecting the Respondent's use of aircraft from the State's Executive Air Pool during the period of time between January 2007 and June 2009. Additionally, Attorney General McCollum provided a copy of his office scheduling calendars from January 2007 through June 2009. The flight records, along with the information reflected in the Attorney General's calendar, have been combined into an Excel spreadsheet, which is appended as Exhibit B.

(8) The above-referenced records reflect that between January 12, 2007, and May 14, 2009, the Respondent flew on a total of 157 flights on aircraft provided by the DMS. The records further reflect that 42 of the Attorney General's flights originated from or terminated at airports located in Sanford or Orlando.

(9) The above-referenced records further reflect that on every occasion when the Respondent flew on DMS aircraft directly from Tallahassee to the Sanford or Orlando airports, his calendar reflects a clear public purpose associated with the flight (based on his having official duties in the area). Likewise, none of the flights in question appear to have been dispatched from Tallahassee to the Sanford or Orlando airports for the sole purpose of transporting the Respondent to Tallahassee.

(10) The Respondent opined that the above-referenced statistics are not reflective of his use of State aircraft for commuting purposes or for other personal purposes. He noted that when he first took office as Florida's Attorney General, he discussed the proper use of State aircraft with his Chief of Staff, Mr. Joe Jacquot, and his scheduler, Ms. Leslie Jacobs, and they, as well as he, understood that State aircraft were to be used for official purposes only. AG McCollum concluded:

I . . . particularly [discussed the issue] with Leslie [Jacobs]. . . . She had been employed by Toni Jennings, as the Lt. Governor at the time, and she [Jacobs] was very familiar with the rules. And we knew—I knew, she knew, Joe Jacquot, my Chief of Staff, did—that we wanted to adhere to the rules, and the rules were [for] official purposes. That is the only way we were going to use that plane.

(11) Mr. Jacquot related that he has served as the Respondent's Deputy Attorney General and Chief of Staff since January 2007, and, prior to that time, he worked on the Attorney General's

transition team. He confirmed that, as Chief of Staff, he is responsible for ensuring that proper arrangements are made with respect to the Respondent's use of State aircraft while traveling to and from various meetings and public events. Mr. Jacquot advised that he considers the matter to be part of his "oversight" responsibilities. He said that he does not recall the Respondent having provided specific direction to him regarding his use of the State aircraft, but, he added, his understanding is and always has been that State aircraft are to be used for official purposes only.

(12) Mr. Jacquot related that his understanding of DMS policies and procedures relative to the use of aircraft, as well as the relevant State statutes, is that the Attorney General is permitted to use State aircraft for travel to airports near his home in Longwood as long as the flights serve a specific public purpose and do not occur solely to transport the Attorney General between Tallahassee and his home. Mr. Jacquot advised that he delegated the responsibility for making arrangements for the Attorney General's flights on DMS aircraft to Ms. Jacobs, the Attorney General's Senior Executive Assistant.

(13) Ms. Jacobs related that she has served as the Respondent's Senior Executive Assistant since he took office in January 2007. She advised that in addition to making most, if not all, of the AG's travel arrangements, she also is responsible for assembling his schedule of events and appearances. Ms. Jacobs advised that she prepares the Respondent's schedule of events with assistance from Mr. Jacquot, other members of the Attorney General's staff, and from the Respondent himself. She acknowledged that the Respondent has communicated to her his desire that his schedule be arranged in a manner that provides for his return to the Longwood area upon conclusion of his duties. However, she could not recall a specific occasion on which that has occurred. She also stated that the Respondent never has directed her to schedule an event in the Orlando area in order to justify a trip home. She advised that she is familiar with the DMS rules concerning use of State aircraft, as well as the applicable Florida Statutes, and she could not recall having ever arranged a flight on State aircraft for the Respondent that was not related to official State business.

(14) As reflected on pages three through five of the complaint, the Complainant cited 15 specific instances that he believes are indicative of the Respondent's use of State aircraft for commuting purposes and/or for other personal purposes unrelated to his official position. However, the ethics investigators reviewed all of the Respondent's flights on DMS aircraft in combination with his calendar, and it was noted that the Respondent's calendar documents clear public purposes for 8 of the flights cited by the Complainant. Those 8 flights, along with an explanation of the apparent public purposes for each, are as follows:

1. April 26, 2007 (Thursday) - The Respondent flew from Tallahassee to Palm Beach Gardens to Sanford, and the aircraft then flew from Sanford to Tallahassee with no passengers. The Complainant questions the public purpose for having routed the airplane through Sanford in order to drop off the Respondent. However, the Respondent's calendar reflects that on the day following the subject flight, he had four meetings in Orlando, including an Attorney General Law Enforcement Advisors meeting.

2. September 10, 2007 (Monday) – The State airplane flew empty from Tallahassee to Sanford, at which location, the Respondent was picked up and flown to Naples. The Complainant questions the public purpose associated with the empty flight from Tallahassee to Sanford. However, the Respondent's calendar reflects that on the preceding work day (Friday, September 7, 2007), he had a meeting in Orlando with Orange County Sheriff Kevin Beary.
3. May 16, 2008 (Friday) – The Respondent flew from Fort Lauderdale to Sanford, and the airplane returned to Tallahassee with no passengers. The Complainant questions the public purpose for having routed the aircraft through Sanford in order to drop off the Respondent. However, the Respondent's calendar reflects that on the following work day (Monday, May 19, 2008), he attended a Law Enforcement Advisory Council meeting in Orlando.
4. May 21, 2008 (Wednesday) – Members of the Respondent's staff flew from Tallahassee to Sanford, at which location the Respondent boarded the airplane for a flight to Key West. Following an official function in Key West on the same date, the Respondent and his staff returned on the State airplane to Tallahassee. The Complainant questions the public purpose for having routed the initial leg of the flight through Sanford in order to pick up the Respondent. However, as noted above, the Respondent had a meeting in Orlando on May 19, 2008, and his calendar also reflects that he worked in the Orlando Office of the Attorney General on Tuesday May 20, 2008.
5. May 29, 2008 (Thursday) – The Respondent flew from Tallahassee to Vero Beach to Orlando, and the airplane subsequently returned to Tallahassee with no passengers. The Complainant questions the public purpose for having routed the airplane through Orlando in order to drop off the Respondent. However, the Respondent's calendar reflects that on the following day (Friday, May 30, 2008), he toured the State Logistics Resource Center in Orlando and presented a check (also in Orlando) to the Florida Hurricane Relief Fund.
6. November 5, 2008 (Wednesday) – A State airplane flew with no passengers from Tallahassee to Sanford, at which location the Respondent boarded the airplane for a flight to Miami. On the following two days (November 6 and 7, 2008, respectively), the Respondent attended official functions in Miami and West Palm Beach, and the aircraft remained in South Florida during those two days. On the afternoon of November 7, 2008, the Respondent flew from West Palm Beach to Sanford, and, from there, the airplane returned to Tallahassee with no passengers. The Complainant questions the public purposes for having routed the flights on November 5 and 7 through Sanford in order to pick up and drop off the Respondent. However, the Respondent's calendar reflects that on the two work days preceding the November 5 flight (November 3 and 4, 2008), he had attended meetings at the

Orlando office of the Attorney General. And on the day following the November 7 flight (Saturday, November 8, 2008), the Respondent attended an Election Canvassing Commission meeting in Orlando.

7. January 21, 2009 (Wednesday) – The State airplane flew empty from Tallahassee to Sanford, at which location the Respondent boarded a flight to Miami. The same airplane transported the Respondent back to Sanford at the end of the day, and then returned to Tallahassee with no passengers onboard. The Complainant questions the public purposes for having routed the airplane through Sanford in order to pick up and drop off the Respondent. However, the Respondent's calendar reflects that on the day prior to the flight (Tuesday, January 20, 2009), he participated in the taping of the Florida Roundtable Program in Maitland, and on day following the flight (Thursday, January 22, 2009) he attended a Florida Philanthropic Network event in Orlando.
8. February 11, 2009 (Wednesday) – The flight in question actually occurred on Thursday, February 12, 2009. The pertinent records reflect that on February 11, 2009, at the end of a routine workday, the Respondent and members of his staff flew from Tallahassee to Fort Lauderdale. On the following day (February 12, 2009), the Respondent and staff attended a Gang Reduction Conference in Sunrise. At the conclusion of the subject conference, the Respondent and his staff members flew from Fort Lauderdale to Sanford, where the Respondent disembarked, and his staff members remained on the State airplane for the flight back to Tallahassee. The Complainant questions the public purpose for having routed the February 12, 2009, return flight through Sanford in order to drop off the Respondent. However, the Respondent's calendar reflects that on the following day (Friday, February 13, 2009), he attended settlement check presentations and a press conference in the Orlando Office of the Attorney General.

Note: As reflected on page four of the complaint, the Complainant reported that the flight in question was from Miami to Sanford. However, DMS flight records reflect that actually the flight was between Fort Lauderdale and Sanford.

(15) The Complainant alleges that a number of DMS flights were “diverted” to the Sanford or Orlando airports for the personal benefit of the Respondent. In their review of the applicable records, the ethics investigators identified nine flights that were routed in a manner that did not have an obvious public purpose. Those flights, five of which were cited by the Complainant, are as follows:

1. August 1, 2007 (Wednesday) – A flight en route from West Palm Beach to Tallahassee, with the Respondent and one staff member onboard, was routed through Sanford to drop off the Respondent. The Respondent's calendar reflects that

subsequent to the flight, the Respondent took seven “personal days” and returned to Tallahassee on Monday, August 13, 2007, by means other than State aircraft.

2. October 26, 2007 (Friday) – A flight en route from Ft. Lauderdale to Tallahassee, with the Respondent as the only passenger, was routed through Sanford to drop off the Respondent. The Respondent’s calendar reflects that the Respondent had a personal day scheduled for Monday, October 29, 2007, and he had no scheduled events in the Sanford/Orlando area prior to flying on a DMS aircraft from Sanford to St. Petersburg on Tuesday, October 30, 2007.

Note: The October 30, 2007, flight from Tallahassee to Sanford, en route to St. Petersburg, is not in question because four passengers were on the flight, including Florida Senator Lee Constantine and former Senator Daniel Webster, both of whom disembarked the aircraft in Sanford.

3. March 7, 2008 (Friday) – A flight en route from Ft. Lauderdale to Tallahassee, with the Respondent as the only passenger, was routed through Sanford to drop off the Respondent. The Respondent’s calendar does not reflect that he conducted any State business during the following weekend, and on Monday, March 10, 2008, he returned to Tallahassee by means other than State aircraft.
4. June 20, 2008 (Friday—two flights) – A morning flight en route from Tallahassee to Tampa, with no passengers, was routed through Sanford to pick up the Respondent. According to his calendar, the Respondent attended official events while in Tampa. An afternoon flight (same airplane) en route from Tampa back to Tallahassee was routed through Sanford to drop off the Respondent, and the airplane returned to Tallahassee with no other passengers. According to the Respondent’s calendar, he had returned by commercial airline to Orlando on the previous day (June 19, 2008) from Providence, Rhode Island, at which location he had attended a meeting of the National Association of Attorneys General. Further, his calendar does not reflect that the Respondent had conducted any State business in Sanford/Orlando between his return from Rhode Island and the morning flight on June 20, 2008. And, subsequent to having returned home from Tampa on the afternoon of June 20, his calendar does not reflect that he conducted any State business while in Sanford/Orlando over the weekend and following Monday.
5. June 23, 2008 (Monday) – A flight en route from Tallahassee to Jacksonville, with no passengers onboard, was routed through Orlando to pick up the Respondent. As noted above, subsequent to having returned home on a DMS flight on Friday, June 20, 2008, the Respondent’s calendar does not reflect that he conducted any State business while in Sanford over the weekend and following Monday.



6. July 18, 2008 (Friday) – A morning flight took the Respondent from Tallahassee to St. Petersburg. That afternoon, a flight en route from St. Petersburg back to Tallahassee, with the Respondent as the only passenger, was routed through Orlando to drop off the Respondent. The Respondent's calendar does not reflect that he conducted any State business in Sanford/Orlando over the weekend.
7. July 21, 2008 (Monday) – A morning flight en route from Tallahassee to Ft. Myers, with two members of the Respondent's staff onboard, was routed through Sanford to pick up the Respondent. As noted above, the Respondent's calendar does not reflect that he conducted any State business while in Sanford/Orlando during the weekend preceding the July 21, 2008, flight.
8. September 9, 2008 (Tuesday) – A flight en route from Tallahassee to St. Petersburg, with two members of the Respondent's staff onboard, was routed through Sanford to pick up the Respondent. His calendar reflects that he had been in Sanford since Thursday, August 28, 2008, and the calendar does not reflect that he had conducted any State business since having returned to Sanford from Tallahassee by means other than State aircraft.
9. February 19, 2009 (Thursday) – A flight en route from Tallahassee to Sarasota, with no passengers onboard, was routed through Sanford to pick up the Respondent. The Respondent's calendar reflects that he had worked in Tallahassee on the previous day (February 18, 2009), and the calendar does not reflect that he conducted any State business in Sanford/Orlando after having returned home by means other than State aircraft.

(16) The Respondent asserts that use of State aircraft in the above-referenced fashion is "common practice" among high ranking public officials in the State of Florida, and he opined that such use is not indicative of commuting or any other improper use of the aircraft. He maintains that there was an official public purpose associated with each of the flights in question, including all of the flights cited by the Complainant, in that either he conducted official business in the destination city subsequent to the flight (with regard to pick up flights) or he conducted official business in the originating city prior to the flight (with regard to drop off flights). The Respondent speculated that there were few, if any, additional costs associated with the "diverted" flights, and, he concluded:

It made no sense for me to fly all the way back to Tallahassee to get in a car and drive back to Orlando. And then what happens? Do I drive back to Tallahassee again, and then take the State plane [on my next official trip]? It is not an exceedingly high cost [associated with the pickup and drop off flights]. It is very minimal if it is, and I don't even know if it is calculated [by DMS or any other agency]. But it never occurred to me, frankly, to think that that was an extra cost, because you are being dropped off and they are going on back to Tallahassee. They are going back to Tallahassee with or without me, and they are going to come make that next flight

either way. It is not like I'm causing them to make a flight to Tallahassee that they wouldn't otherwise make. I don't know what the arguable difference is. . . . I had official business at each end. In other words, I never considered that commuting. That's always the question asked of me, 'Are you using this plane to commute? Are you using it for unofficial reasons?' There was always an official reason to be where I was that day, at the beginning or the end of the day, and there was always an official reason whenever [or] whatever way I went. And it didn't seem to me there was much difference either way.

(17) The investigators' review of the DMS flight records in combination with the Respondent's calendar confirms that on every occasion on which a DMS flight was routed through the Sanford or Orlando airports to pick up the Respondent, he had an official event scheduled in the destination city. Likewise, the records reflect that on every occasion on which a DMS flight routed through the Sanford or Orlando airports to drop the Respondent, he had had an official event in the originating city prior to departing for Sanford/Orlando.

(18) Mr. Jacquot advised that he never has discussed with the Respondent whether the types of flights featured in paragraph 15 are appropriate. Furthermore, he said that he has not sought any legal guidance or opinions regarding the matter. However, when questioned further about the matter, he opined that it is irrelevant whether or not the Attorney General conducted State business while in the Longwood area prior to or following a trip in which he had conducted State business. His understanding, he concluded, is that when the Respondent traveled to the Longwood area via State aircraft after having conducted State business, or flew from the Longwood area to conduct State business, he was using the State plane in a manner consistent with applicable laws and rules.

(19) Ms. Jacobs related that there were occasions on which the Respondent indicated that he wanted to be at his Longwood home on a given day or during a specific period of time. She also confirmed that the Attorney General sometimes instructed her to route DMS flights through Sanford or Orlando for the purposes of dropping him off or picking him up near his home. However, she related that she never discussed with the Respondent whether or not it was appropriate for her to schedule such flights, and she could not recall having sought any legal or other advice or guidance regarding the matter. When questioned about the possibility of additional costs associated with such flights, Ms. Jacobs concluded:

Frankly, as far as efficient use of his time, [if] he was traveling from West Palm Beach all the way back to Tallahassee, and then for him to have to drive back [to Sanford], it could have been my assumption that the plane was flying between point A and B, and C was in the middle. Is there a [financial] cost associated with that? There probably is.

(20) DMS Aircraft Operations Director McClure was asked to examine DMS records to determine if there were any increased costs incurred by the State for the "diverted" flights discussed in paragraph 15 of this Report of Investigation. In response, he provided information, appended as

Exhibit C, reflecting that there was a probable increase in the costs associated with the flights in question. Mr. McClure related that on some occasions, DMS was charged a “landing/handling fee” by certain airports, which increased the cost of some of the flights, and he noted that there were additional costs associated with increased flight times. Explaining his calculation methodology, Mr. McClure advised that he computed the average direct flight time, over a three-year period of time, for DMS flights from the point of origin to the final destination for each of the flights in question. He then subtracted that figure from the actual flight time of the corresponding flight, which included a stop at the Sanford or Orlando airports. To calculate the difference in flight time cost between a direct flight and a diverted flight, he concluded, he multiplied the amount of subtracted time for a given flight by the hourly rate charged for the aircraft in question on the date of the flight.

(21) Mr. McClure advised that the apparent inconsistent costs, or “spike” in costs, during late 2008 was due to a loss of funding by the Aircraft Operations Center for fixed costs. Because those funds subsequently were restored, he said, costs were lowered in February 2009. Mr. McClure also noted that flight time charges are assessed only for the period of time that the aircraft is in the air, and not for the time spent on the ground between flights.

(22) Based upon Mr. McClure’s figures, the 10 “diverted” flights explained in paragraph 15 of the Report of Investigation exceeded the total of direct flights by \$7,128.70 (in the aggregate), and by \$712.87 per flight (on average).

(23) The South Florida Sun-Sentinel and The Miami Herald published recent newspaper articles reflecting that in February 2009 the DMS, through its Inspector General’s office, conducted an audit of the Department’s policies concerning the use of the State’s Executive Air Pool. During the subject audit, DMS auditors reportedly drafted a memorandum reflecting that certain “Priority [One]” customers of the Executive Air Pool had used State aircraft to commute between Tallahassee and their homes. The document in question (appended as Exhibit D) is general in nature and does not reflect the names of the officials alluded to in the report. The language in question also was omitted from the DMS’ final memorandum, which was issued at the conclusion of the audit.

Note: “Priority One” is a designation that DMS assigns to certain users of its aircraft services, and Priority One passengers include the Governor, Lieutenant Governor, all Cabinet members (including the Attorney General), Senate President, Speaker of the House of Representatives, and Chief Justice of the Florida Supreme Court.

(24) Steve Rumph, the DMS Inspector General, advised that in early February 2009, DMS Secretary Linda South ordered an audit of the billing procedures utilized by the DMS Bureau of Aircraft Operations. He explained that due to increased scrutiny of the agency’s aircraft operations, the Secretary wanted verification that the agency was correctly billing for flights on DMS aircraft. During the initial stages of the audit, he added, the audit staff, led by Mr. John Davis, the DMS Audit Director and Chief Auditor, examined many issues related to the billing and use of DMS aircraft. Inspector General Rumph acknowledged that while conducting the audit, Mr. Davis noted “patterns” regarding the Priority One passengers’ use of DMS aircraft, which led them to question whether or

not some of them were using the aircraft for commuting purposes. He said that Mr. Davis expressed those concerns in a “draft memorandum,” which is the memorandum referenced in the newspaper articles. He characterized the subject draft memorandum (Exhibit D) as an “internal, audit work-paper” reflecting general observations that never were verified or fully investigated.

Note: Inspector General Rumph advised that the above-referenced draft memorandum became public after it was inadvertently released with other documents in response to a public records request.

(25) Inspector General Rumph next advised that he and Mr. Davis thoroughly discussed this matter, and upon having weighed all the issues involved, he (Rumph) directed Mr. Davis not to pursue the commuting issue any further. His reasoning in that regard was based on a number of factors, he explained, including his determination that the Priority One passengers’ possible use of the DMS aircraft for commuting purposes was well beyond the scope of the audit that had been directed by Secretary South. He also noted that Secretary South had requested that the audit be completed within two weeks, and his feeling was that it would have taken months to fully explore the issues related to the Priority One passengers’ use of the aircraft. He noted that Audit Director Davis concurred with his assessment of the situation and his decision to discontinue the examination of potential uses of DMS aircraft for commuting purposes. He provided a copy of a February 24, 2009, Memorandum of Record (appended as Exhibit E), in which he formally documented his reasons for discontinuing that facet of the audit.

(26) Inspector General Rumph also related that, during the time the audit was being performed, it was his understanding that the Commission on Ethics already was investigating the alleged misuse of DMS aircraft. He noted that his knowledge in that regard was another reason that he directed his staff to discontinue its examination of the Priority One passengers’ possible use of DMS aircraft for commuting purposes. Inspector General Rumph advised that the Respondent had no involvement in this decision, and, he concluded, he never has even discussed the matter with AG McCollum.

(27) Chief Auditor Davis advised that the suggestion that certain Priority One officials were using the DMS aircraft for commuting purposes was based entirely on the frequency of flights between Tallahassee and the homes of the flyers. He said that he concurred with Inspector General Rumph's decision to discontinue the inquiry in question, and he confirmed that he did not pursue the matter any further. Chief Auditor Davis advised that the Respondent also had no influence on his decisions concerning this matter.

(28) Inspector General Rumph acknowledged that he also discussed the above-referenced issues with Secretary South, including his decision to not pursue the Priority One passengers’ alleged use of DMS aircraft for commuting purposes. However, he asserts that he made the final decision concerning this matter, and that neither DMS Secretary South nor anyone else directed or influenced his decision in any way.

(29) DMS Secretary South acknowledged that she and Inspector General Rumph discussed this matter and that he advised her of the suggestion that certain Priority One passengers may have used

the DMS aircraft for commuting purposes. She confirmed that she did not direct Mr. Rumph to omit the information from the final audit report, although, she concluded, she concurred with his assessment of the matter and with his decision to terminate that facet of the audit. Secretary South indicated that she never spoke directly with any of the Priority One passengers about this issue, and, she concluded, neither AG McCollum nor any other outside party had any involvement in her concurrence with Mr. Rumph's decision to terminate the audit in question.

#### ALLEGED "OTHER" PERSONAL USE OF STATE AIRCRAFT

(30) The Complainant alleges that, in addition to the alleged use of State aircraft for commuting purposes, the Attorney General also may have made "other uses [of State aircraft] unrelated to the official business of the state."

(31) As reflected in the complaint, the Complainant questions the appropriateness of DMS flights taken by the Respondent on February 3, 2007, to attend funerals in Jackson County, and April 21, 2009, to attend a General Electric Board of Director's Dinner.

(32) DMS flight records reflect that on Saturday, February 3, 2007, a State airplane, dispatched from Tallahassee with no passengers, picked up the Respondent in Sanford and flew him to Marianna. Later the same day, the same airplane picked up the Respondent in DeFuniak Springs and returned him to Sanford. After dropping off the Respondent in Sanford, the State airplane flew back to Tallahassee with no passengers. The aggregate cost of the flights was \$4,225.00.

(33) The Respondent's calendar for Saturday, February 3, 2007, reflects that he attended the funerals of Mellie McDaniel in Marianna and Jackson County Sheriff's Deputy Harold Michael "Mike" Altman in Freeport. The AG's calendar further reflects that he had taken a "personal day" on Friday, February 2, 2007, and that he had traveled to Longwood by means other than State aircraft. On the Monday following the flights in question (February 5, 2009), the Respondent had a press conference and three interviews in Orlando at the Office of the Attorney General.

(34) The Respondent opined that the above-referenced flights were appropriate in that he has an official duty to attend the funerals of slain Florida law enforcement officers. He noted that Deputy Altman had been killed in the line of duty while attempting to aid the other victim, Ms. McDaniel, who was then Jackson County Sheriff John McDaniel's wife. The AG denies having misused his position concerning the subject flights.

(35) AG Chief of Staff Jacquot concurred with the Respondent's assertion that attending the funerals of slain law enforcement officers is part of the Respondent's official duties as Florida's Attorney General.

(36) DMS flight records reflect that on Tuesday, April 21, 2009, a State airplane transported the Respondent from Tallahassee to Orlando, and the same airplane returned the Respondent to Tallahassee later the same day. The total cost of the round-trip flight was \$2,700.00.

(37) The Respondent's calendar confirms that he attended a General Electric Board of Director's Dinner in Orlando on the evening of April 21, 2009.

(38) The Respondent opined that the flights associated with his April 21, 2009, trip to Orlando were appropriate in that his attendance at the General Electric Board of Directors Dinner served a public purpose. He explained that he is not a member of the General Electric Board of Directors and he owns no shares of stock in the subject corporation, and, he concluded:

I felt very strongly that it was an official function. The Board of Directors of one of the largest corporations in America was actually meeting in Florida, meeting at Universal Studios. . . . I was asked to come to their big dinner that night to represent the State, and I went to that dinner in order to represent the State. I got no compensation for it. It was not a political event.

(39) Chief of Staff Jacquot confirmed that the Respondent was invited to represent the State of Florida at the above-referenced General Electric Board of Director's Dinner, and his recollection is that the Respondent was asked to appear in place of Governor Charlie Crist. Mr. Jacquot concurred with the Respondent's opinion that his (the AG's) participation in the event was an official duty of his office.

(40) Mr. Trey Paris, General Electric's U. S. Manager of State Government, related by telephone that he, personally, invited Attorney General McCollum to attend the event in question. He noted that General Electric holds such events in various states and routinely invites high ranking public officials to attend as representatives of their states. He confirmed that he originally invited Governor Crist, but, at the last minute, a spokesperson in the Governor's Office informed him that the Governor would not be able to attend. He said that he subsequently spoke with the Attorney General and invited him to attend the dinner as a representative of the State, and the AG agreed. When asked his opinion as to what public purpose was served by the AG's attendance at the dinner, Mr. Paris noted that AG McCollum welcomed the attendees to the State and made a few opening remarks prior to the dinner.

(41) In addition to the flights cited by the Complainant, the ethics investigators noted that on the morning of Saturday, December 20, 2008, a DMS airplane was dispatched from Tallahassee with no passengers onboard, and it was routed through Sanford to pick up the Respondent. The airplane transported the Respondent from Sanford to St. Petersburg, where, according to the AG's calendar, he delivered a commencement speech at Stetson Law School. The Respondent's calendar does not reflect that he had any other official business in St. Petersburg scheduled for that day. Later that afternoon, the same DMS airplane transported the Respondent from St. Petersburg back to Sanford, and the airplane then returned to Tallahassee with no passengers onboard. DMS records reflect that the total cost of noted flights was \$7,690.00.

(42) The Respondent maintains that, regardless of the costs associated with the above-referenced flights, his speaking at the Stetson Law School graduation clearly is a function of his office. He denies having misused his position regarding this issue.

(43) Chief of Staff Jacquot opined that delivering commencement addresses at colleges and universities within the State of Florida, and especially with regard to law school graduations, clearly is an official duty of the Attorney General. He also advised that, to his knowledge, the Respondent did not receive any compensation for having delivered the commencement speech in St. Petersburg on December 20, 2008.

(44) With regard to other potential “personal uses” of State aircraft, although the Complainant did not allege improper use of the State aircraft by the Respondent’s family, Mr. McClure advised that he knows of no occasion on which Ms. McCollum or any other of the Respondent’s immediate family members flew on State aircraft. Likewise, Ms. Debbie Brock, the DMS flight scheduler, researched the DMS records and reported that she was unable to identify any flights that appear to have included passengers related to the Respondent.

(45) The Complainant also did not allege improper use of State aircraft to further the Respondent’s campaign for Governor, and the ethics investigators found no evidence reflecting that AG McCollum had used State aircraft to travel to campaign-related events.

END OF REPORT OF PRELIMINARY INVESTIGATION

*Office of the*  
**ATTORNEY GENERAL of FLORIDA**  
***Bill McCollum***



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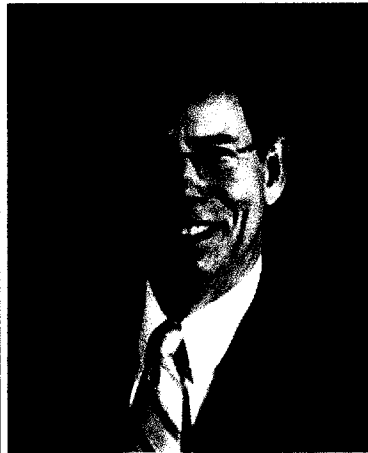
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Bill McCollum is the 36th Attorney General of Florida, elected in November 2006. Since taking office, he has positioned Florida as a national leader in the fight against child pornography and internet child predators. At his request, the Florida Legislature provided the resources to greatly expand the Attorney General's Child Predator CyberCrime Unit (CPCU) and passed laws giving law enforcement new tools and greater punishments for those who prey on children over the internet. Additionally, with the cooperation of the state's school superintendents and school resource officers, the Attorney General's Office has prepared a cybersafety program to present in all of Florida's middle and high schools.

As Attorney General, Bill's other priorities include developing a statewide gang reduction strategy; consumer protection; combating Medicaid fraud; improving the state's security against terrorist threats, and fighting crimes against the elderly, especially identity theft.

Bill McCollum is a native Floridian, born in Brooksville. He graduated from Hernando High School and earned his bachelor's degree and law degree from the University of Florida.

After graduating from law school, Bill served on active duty in the U.S. Navy from 1969-1972. In 1992, he retired from the Naval Reserve as a Commander, having served 23 years as an officer in the Judge Advocate General's Corps (JAG).

From 1981 to 2001, Bill represented the people of Central Florida in the United States Congress. He founded the U.S. House Task force on Terrorism and Unconventional Warfare and was recognized as an expert on terrorism. Bill also served on the Judiciary Committee, where he chaired the Subcommittee on Crime, as well as the Intelligence and Banking committees. Upon retiring from the House of Representatives in 2001, he was a partner with Baker and Hostetler, LLP, until he was elected as the Attorney General.

Bill is married to Ingrid Seebohm McCollum. They have three sons, two daughters-in-law and two grandsons.

[Florida Attorneys General \(1845 - \)](#)

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# Flight Record and Calendar Spreadsheet

Flight Date	Day	Flight Legs	Event Location	Event Discription	Para
1/12/2007	Fri	TLH- ORL - TPA	ORLANDO	Civil Justice Reform Group meeting	
1/12/2007		TPA- TLH	TAMPA	Visit Tampa Attny Gen Office	
1/16/2007	Tue	TLH - SEF	SEBRING	Funeral Service	
1/16/2007		SEF- MIA-TLH	COCONUT GROVE	U.S. Chamber Inst. for Legal Reform	
1/29/2007	Mon	TLH-JAX-VPS	JACKSONVILLE	Governor's Pub Safety Initiative Press Conf	
1/29/2007		VPS-TLH	DETIIN	FL Sheriff's Association Dinner	
2/3/2007	Sat	TLH*-SFB-MAI	MARIANNA	Funeral of Mellie McDaniel	32
2/3/2007		SAJ- SFB- TLH*	FREEPORT	Funeral of Deputy Mike Altman	32
3/27/2007	Tue	TLH- WPB-TLH	LAKE WORTH	Gang Violence Meeting and other meetings	
3/30/2007	Fri	TLH-TPA	TAMPA	Meetings and press interviews	
4/18/2007	Wed	TLH-BKV-TLH	BROOKSVILLE	Purpose not stated	
4/24/2007	Tue	TLH-CRG-TLH	JACKSONVILLE	Meetings & visit to Jville AG office	
4/26/2007	Thu	TLH-F45-SFB-JAX*	WEST PALM BEACH	American Board of Trial Attyns meeting (4/27 meeting OrI)	14
5/11/2007	Fri	TLH*-ORL-TPA	TAMPA	Cyber Safety Rollout Event	
5/11/2007		TPA-FBO	FT. LAUDERDALE	Cyber Safety Rollout Event	
5/11/2007		FBO-ORL-TLH*	ORLANDO	Cyber Safety Rollout Event	
5/22/2007	Tue	TLH*-FMY-TLH	FT. MYERS	BUPAC Event, Water Committee Event, Press Event	
5/31/2007	Thu	TLH* -ISM-MIA	ORLANDO	Conference/Press Conf AM	
5/31/2007		MIA-SFB-TLH*	MIAMI	Visit Miami AG office/Press Conf	
6/6/2007	Wed	TLH-PFN-TLH	PANAMA CITY	Meetings 9:30am-8:15pm	
6/7/2007	Thu	TLH-PBI	WEST PALM BEACH	Professional Firefighters Conf	
6/7/2007		PBI-ORL-WPB*	ORLANDO	Lake Buena Vista: FL Narcotics Officer Conf	
6/26/2007	Tue	TLH - SRQ -TLH	SARASOTA/BRADENTON	Conference and meetings	
7/11/2007	Wed	TLH-MIA	MIAMI	Meetings w/L.E. officials, AG office, TV interview	
7/13/2007	Fri	MIA-ORL-TLH*	ORLANDO	Global Clim Chng Summit - Orlando: Conference	
7/18/2007	Wed	TLH-PNS-TLH	PENSACOLA	Pensacola: meet w/ Escambia Co. Law Ent. Officials	
7/31/2007	Tue	TLH-CRG	JACKSONVILLE	Florida Sheriff's Assoc. Conference and other events	
8/1/2007	Wed	CRG-WPB -SFB-TLH*	WEST PALM BEACH	No State business following flight	15
9/5/2007	Wed	TLH - TPA	TAMPA	School Cyber Safety Rollout - news media interviews	
9/6/2007	Thu	TPA-MIA-TLH	MIAMI	news media interviews, Cybersafety presentation	
9/10/2007	Mon	TLH*-SFB-APF-TLH	NAPLES	( Work OrI 9/7) School Cybersafety rollout, interviews	14
9/18/2007	Tue	TLH*-SFB-MIA-TLH	MIAMI	Ceremony Honoring Jose Somohano	

Flight Record and Calendar Spreadsheet

Flight Date	Day	Flight Legs	Event Location	Event Discription
9/25/2007	Tue	TLH*-SFB-SRQ-SFB-TLH*	SARASOTA	Cybersafety event, meetings, interviews
10/4/2007	Thu	TLH*-SFN-JAX-TLH*	JACKSONVILLE	Cybercrime office opening w/interviews
10/11/2007	Thu	TLH-OPF	MIAMI	Cybersafety Program, interviews, meetings
10/12/2007	Fri	OPF-SFB-TLH*	MIAMI	Meetings, Shred-a-thon
10/17/2007	Wed	TLH-FLL-TLH	FT. LAUDERDALE	International Assn. of Ins. Supervisors Conf
10/18/2007	Thr	TLH-BKV-SRQ*	BROOKSVILLE	Cybersafety Presentation, meeting, interview
10/26/2007	Fri	TLH*-FLL-SFB-TLH*	FT. LAUDERDALE	No State business following flight
10/30/2007	Tue	TLH*-SFB-PIE-TLH	ST. PETERSBURG	Shred-A-Thon, Cybersafety Presentation, meetings
11/8/2007	Thu	TLH-DTS-TLH	DESTIN	Cybersafety Presentation, meeting
12/15/2007	Sat	TLH*-SFB-OPF	MIAMI	St. Thomas Univ. Fall Graduation Ceremony
12/15/2007		OPF-CRG-TLH*	JACKSONVILLE	Meeting w/ Maureen Horkan & Joe Jacquot

Flight Record and Calendar Spreadsheet

Flight Date	Day	Flights	Event Location	Event Description	Para
2/6/2008	Wed	TLH-OPF-TLH	MIAMI	Meetings	
2/11/2008	Mon	TLH-SGJ-TLH	ST. AUGUSTINE	Conference	
2/14/2008	Thu	TLH-ORL-VDF	ORLANDO/TAMPA	Orlando: Parade/Tampa: Hospital Benefit	
2/18/2008	Mon	VDF*-BKV-TLH	BROOKSVILLE	Luncheon, FDEP event	
2/27/2008	Wed	TLH-PBI-TLH	WEST PALM BEACH	Luncheon, Interview, AG local office	
3/7/2008	Fri	TLH-FLL-SFB-TLH*	FT. LAUDERDALE	No State business following flight	15
3/19/2008	Wed	TLH-GPT	Biloxi, MS	Conference	
3/20/2008	Thu	GPT-TLH	Biloxi, MS	Conference	
3/26/2008	Wed	TLH-FPR-TLH	PORT LUCIE/STUART	Cybersafety Presentations	
4/2/2008	Wed	TLH-PIE-TLH	ST. PETERSBURG	Cybersafety Presentation, Meetings	
4/23/2008	Wed	TLH-PNS-TLH	PENSACOLA/MILTON	Cybersafety Event, Luncheon, Meeting	
5/7/2008	Wed	TLH-PGD-TLH	PUNTA GORDA	Cybersafety Presentation, School Visit	
5/14/2008	Wed	TLH-FLL-FMY*	FT LAUDERDALE	Shread-a-thon event, Cybersafety event, Assoc. of Corp. Counsel	
5/16/2008	Fri	FLL-MTH-SFB-TLH*	MARATHON	Law Enf. Luncheon, Cybersafety Event (5/19 LE Meeting Orlando)	14
5/21/2008	Wed	TLH*-SFB-EYW-TLH	KEY WEST	Joint Interagency Task Force Briefing	14
5/22/2008	Thu	TLH-55J-CRG-TLH	AMELIA IS/JACKSONVILLE	Conference, Luncheon, AG ofc event (5/19 LE Meeting Orlando)	
5/29/2008	Thu	TLH-VRB	VERO BEACH	Vero Bch Press Editorial Broad Meeting	14
5/29/2008		VRB-ORL-TLH*	ORLANDO	5/30 Tour of State Logistics Resource Cntr	
6/20/2008		TLH*-SFB-TPA-SFB-TLH*	TAMPA	No State business prior to or following flight	15
6/23/2008	Mon	TLH*-ORL-CRG	JACKSONVILLE	(No State business prior to flight) NE FL Compliance & Ethics Group Meeting	15
6/23/2008		CRG-ORL-TLH*	ORLANDO	National Retail Fed. Loss Prevention Conference	
6/25/2008	Wed	MIA*-PBI-SFB-TLH*	WEST PALM BEACH	Local AG Ofc/FL Police Chief Conf	
6/30/2008	Mon	TLH*-PBI-TLH	TAMPA	Bill Signing Ceremony	
7/2/2008	Wed	TLH-TPA-TLH*	SARASOTA	Child Predator Cyber Crime Unit, Interview W/Bay News 9, Kiwanis Club Event	
7/8/2008	Tue	TLH-SRQ-TLH	ST. PETERSBURG	Maratee Chamber of Comm. Event, Kiwanis Club of Bradenton Meeting	
7/18/2008	Fri	TLH-PIE	ORLANDO	Lemon Law Arbitrator Training, Vol. Bar Leaders Conf., Meet w/State Attny	
7/18/2007		PIE-ORL-TLH*	ORLANDO	No State business following flight	15
7/21/2008	Mon	TLH*-FMY	FT. MYERS	(No State business prior to flight) FL Assoc. of Schools Conference	15
7/21/2008		FMY-PIE-TLH	ST. PETERSBURG	Gang Reduction Meeting, Meet W/State Attny	
7/24/2008	Thu	TLH-DTS	FT WALTON BEACH	Meeting w/family of Deputy Forgiore	
7/24/2008		DTS-2RA-TLH	MILTON	Cyber Crime Event, Hospital Meeting	
8/27/2008	Wed	TLH-SGJ-TLH	ST AUGUSTINE	FDCC Advisory Council Meeting, Florida Council on Crime Event	
8/28/2008	Thu	TLH-BCT-TLH	BOCA RATON	Meeting W/Dr. Bill Saxton, Business Development Board Meeting	
9/9/2008	Tue	TLH*-SFB-PIE-MIA	ST. PETERSBURG	(No State business prior to flight) Tampa regional gang meeting	15
9/10/2008	Wed	MIA-SFB-TLH*	MIAMI	Press Conf., Miami Herald Editorial Board Meeting, (memorial 9/11 Mt Dora)	
10/2/2008	Thu	TLH*-SFB-SRQ	SARASOTA	Argus Foundation Event	

Flight Record and Calendar Spreadsheet

Flight Date	Day	Flights	Event Location	Event Description	Para
10/3/2008	Fri	SRO-FLL	FT LAUDERDALE	Rotary Club Meeting, Jarl-Research Tour	
10/3/2008		FLL-SFB-TLH*	SANFORD	Policeman's Ball Daytona 10/4	
10/7/2008	Tue	TLH-LAL-TLH	LAKELAND	Chamber of Comm. Event, Lakeland Chairman's Circle Luncheon	
10/22/2008	Wed	TLH-PMF-TLH	POMPANO BEACH	N. Brwd Prevention Coalition Meeting, Meet w/local Sheriff, other meetings	
11/5/2008	Wed	TLH*-SFB-MIA	MIAMI	Chamber of Comm. Event, Meet w/local AG staff on 11/3 & 4	14
11/6/2008	Thu	MIA-PBI	WEST PALM BEACH	Rotary Club Event, Council of 100 Reception & Dinner	
11/7/2008		PBI-SFB-TLH*	GALAXY AVIATION	Council of 100 speaking engagement, (Elec. Canvassing Meeting Orl)	14
11/13/2008	Thu	TLH*-SFB-LAL	LAKELAND	Leadership Florida Council of Advisors	
11/13/2008		LAL-FMY	FT MYERS	Gang Reduction Task Force Meeting (11/14)	
11/14/2008	Fri	FMY-ORL	ORLANDO	Boy Scout President's Executive Dinner	
12/16/2008	Tue	TLH-DTS-TLH	DESTIN	Gang Reduction Task Force Meeting	
12/20/2008	Sat	TLH*-SFB-PIE-SFB-TLH*	ST. PETERSBURG	Speak at Stetson Law School Graduation	41

Flight Record and Calendar Spreadsheet

Flight Date	Day	Flights	Event Location	Event Description	Para
1/21/2009	Wed	TLH*-SFB-MIA-SFB-TLH*	MIAMI	State business prior to and following flight	14
2/11/2009	Wed	TLH*-FLL	FT. LAUDERDALE	Fly to Ft. Lauderdale after work day in Tallahassee	14
2/12/2009	Thu	FLL-SFB-TLH*	FT. LAUDERDALE	Gang Task Force Ft Lauderdale (State business in Orlando on 2/13)	14
2/16/2009	Mon	DTS*-SFB-DTS-TLH	DESTIN/FT. WALTON	Sheriff's Assoc. Conference	
2/19/2009	Thu	TLH*-SFB-SRQ	SARASOTA	No State Business Prior to Flight	15
2/19/2009		SRQ-PBI-TLH*	WEST PALM BEACH	Meet W/Statewide Prosecutor in local AG office (personal day 2/20)	
3/19/2009	Thu	TLH-FXE-TLH*	FT. LAUDERDALE	Cybersafety Presentation, AG office visit	
3/23/2009	Mon	TLH*-SFB-FLL-TLH	FT. LAUDERDALE	Meeting, Luncheon, Meeting	
4/16/2009	Thu	TLH-APF-TLH	NAPLES	Marco Island Police Foundation Luncheon	
4/21/2009	Tue	TLH-ORL-TLH	ORLANDO	Gen. Electric Board of Directors Dinner	36
4/24/2009	Fri	TLH-APF	NAPLES	Campaign for Leadership Luncheon	
4/24/2009		APF-BKV-TLH*	APOPKA	Apopka Foliage Festival Ribbon cutting (4/25) am	
4/29/2009	Wed	TLH-CEW-TLH	CRESTVIEW	Visit with families of Deputy Burt Lopez and Warren York	
4/30/2009	Thu	TLH-SRQ-TLH	SARASOTA/BRADENTON	Junior League Luncheon	
5/7/2009	Thu	TLH-PIE	ST. PETERSBURG	Meeting, Dinner/Reception	
5/8/2009	Fri	PIE-LAL-TLH	LAKELAND	Lakeland Bar Assoc. Luncheon	
5/14/2009	Thu	TLH-MIA-TLH	MIAMI	Ryder Systems Employee Meeting	

AIRPORT KEY

ATL - Atlanta, Ga	GNV - Gainesville
APF - Naples	JAX - Jacksonville
BCT - Boca Raton	LAL - Lakeland
BKV - Brooksville	LCQ - Lake City
CEW - Crestview	LEE - Leesburg
COI - Merit Island	MIA - Miami
CRCG - Jacksonville	MCO - Orlando
DC - Washington, DC	MTH - Marathon
DAB - Daytona	ORL - Orlando
EYW - Key West	PBI - West Palm Beach
FLL - Ft. Lauderdale	PFN - Panama City
FMY - Ft. Myers	PGD - Punta Gorda
F45 - West Palm Beach	PIE - St. Petersburg
	PNS - Pensacola
	PMP - Pompano Bch
	RIC - Richmond, VA
	SFB - Sanford
	SIG - St. Augustine
	SRQ - Sarasota
	TLH - Tallahassee
	TPA - Tampa
	VNC - Venice
	VPS - Ft. Walton Beach
	XMR - Cape Canaveral
	X07 - Lake Wales
	X31 - Crystal River

\*Indicates flight legs on which the Respondent was not on board the aircraft.

8/1/2007	KA350	WEST PALM BEACH	SANFORD	15:50	16:35	48	\$975.00			
8/1/2007	KA350	SANFORD	TALLAHASSEE	16:50	17:45	54	\$975.00			
						102				
	KA350	WEST PALM BEACH	TALLAHASSEE	Avg Time		83	1.4			
		Avg Direct Flight Cost:	\$1,365.00			19	\$975.00	0.3	\$292.50	\$417.50
					Additional Flight Time		Rate	Additional Charge	Land Fee	Total
10/26/2007	KA300	FT. LAUDERDALE	SANFORD	21:30	22:20	48	\$825.00			
10/26/2007	KA300	SANFORD	TALLAHASSEE	22:30	23:20	48	\$825.00			
						96				
	KA300	FT. LAUDERDALE	TALLAHASSEE	Avg Time		81	1.4			
		Avg Direct Flight Cost:	\$1,155.00			15	\$825.00	0.3	\$247.50	\$247.50
					Additional Flight Time		Rate	Additional Charge	Land Fee	Total
3/7/2008	BRAVO	FT. LAUDERDALE	SANFORD	15:45	16:20	36	1200			
3/7/2008	BRAVO	SANFORD	TALLAHASSEE	16:40	17:30	48	1200			
						84				
	BRAVO	FT. LAUDERDALE	TALLAHASSEE	Avg Time		70	1.2			
		Avg Direct Flight Cost:	\$1,440.00			14	\$1,200.00	0.2	\$240.00	\$365.00
					Additional Flight Time		Rate	Additional Charge	Land Fee	Total
6/20/2008	KA300	TALLAHASSEE	SANFORD	6:55	7:45	48	825			
6/20/2008	KA300	SANFORD	TAMPA	8:50	9:15	24	825			
						72				
	KA 300	TALLAHASSEE	TAMPA	Avg Time		48	0.8			
		Avg Direct Flight Cost:	\$660.00			24	\$850.00		\$330.00	\$405.00
					Additional Flight Time		Rate	Additional Charge	Land Fee	Total

[illegible]







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Governor: Charlie Crist

Secretary Linda H. South

## MEMORANDUM

*Proposed  
Report*

**DRAFT**

Date: February 23, 2009

To: Linda H. South, Secretary

From: Steve Rumph, Inspector General

Subject: **Billing Procedures for Use of State Aircraft**

At your request, we conducted a review of the Bureau of Aircraft Operations' (Bureau) billing procedures. Our primary objective was to determine if the Bureau was correctly billing state officials and employees for air transportation services. Our review also included billings for non-state employees, including spouses and immediate family members who accompanied state officials traveling on state aircraft.

As you requested, our review was limited to those records pertaining to aircraft use for the period of July 1, 2008 through February 15, 2009. Further, our review did not include determining whether: (1) state officials who used the aircraft were on official state business at the time of their travel, (2) passengers listed as spouses or immediate family members were, in fact, related to the Priority 1 passenger or, (3) why the Bureau failed to correctly bill travelers prior to July 1, 2008.

### RESULTS OF REVIEW

For the period under review, billing procedures were being performed correctly. Our review of the trip logs and invoices issued for travel during the audit period found no billing errors. As of February 20, 2009, the Bureau of Financial Management Services had collected \$754,423.40 of the \$794,015.10 in transportation charges.

While billing procedures were adequate for the period reviewed, the Bureau could implement additional procedures to ensure that services provided are for approved travel. Therefore, should questions arise as to whether the state employee using the aircraft was traveling on official state business, we suggest that the Bureau:

- Require state employees traveling on state aircraft to complete a form certifying that the travel is for official state business. This form could be completed prior to each flight or on an annual basis for Priority 1 travelers. The form should also include a section for the employee to certify that the aircraft is not being used for commuting purposes.

*att 2*  
We serve those who serve Florida.

Prepared By <i>[Signature]</i>	Reviewed By <i>[Signature]</i>
Date 2/24/09	Date 4/6

*D-1*

**DRAFT**

- Develop overall policies and procedures for aircraft operations, use and billing. The Bureau is currently developing administrative policies and procedures for billing non-state employees for use of state aircraft. However, the Bureau should also develop comprehensive internal policies and procedures to ensure compliance with statute and rule requirements governing the use of aircraft. Rule 60B-4.001 requires that any agency which owns, leases, rents, charters, or otherwise has temporary or permanent possession or control of any aircraft shall ensure that it is used only for purposes consistent with Part II, Chapter 287, Florida Statutes (F.S.), and with other applicable laws and regulations. The rule further requires that agencies shall develop such internal procedures as may be required to ensure such compliance.

### **ADDITIONAL ISSUES**

During the course of our review it came to our attention that several Priority 1 travelers were using state aircraft for commuting between their "official headquarters" (Tallahassee) and their homes in other locations in Florida. Although trip logs and invoices listed the travel as "official state business" the frequency and timing of the travel indicated otherwise. While the Bureau has no control over the classification of travel assigned by agencies for Priority 1 travelers, this issue needs to be addressed and resolved expeditiously.

Based on current travel regulations, specifically Section 112.061, F.S., "official state business" does not include commuting between the traveler's home and "official headquarters". In the instances we reviewed, all of the Priority 1 travelers were headquartered in Tallahassee. Accordingly, all travel to their homes outside of Tallahassee would be considered commuting and the traveler should not be flown at state expense.

The confusion surrounding this issue appears to revolve around changes to Section 287.17(3)(a), F.S. which occurred in 2005. Prior to 2005, Section 287.17(3)(a), F.S., specifically prohibited the use of state aircraft for commuting purposes:

***"The term "official state business" may not be construed to permit the use of a motor vehicle or aircraft for commuting purposes."***

In 2005, the word "aircraft" was removed from this section of the statutes. Seemingly, the absence of the word "aircraft" appears to have removed aircraft from the restriction on commuting. Apparently this change was interpreted by some state employees and state officials to mean that aircraft were now authorized for commuting purposes. However, this position conflicts with Section 112.061, F.S., specifically as to the meaning of "official state business" and "official headquarters".<sup>1</sup> Moreover, Section 112.061(1)(b)1, F.S., specifies:

***"The provisions of this section shall prevail over any conflicting provision in a general law, present or***

<sup>1</sup> See also Attorney General Opinion 86-32

Prepared By <i>[Signature]</i>	Reviewed By <i>[Signature]</i>	WP <i>[Signature]</i>
Date 3/24/09	Date <i>[Signature]</i>	5/6

**D-2**

**DRAFT**

***future, to the extent of the conflict; but if any such general law contains a specific exemption from this section, including a specific reference to this section, such general law shall prevail, but only to the extent of the exemption."***

The changes to Section 287.17, F.S. do not contain any reference to Section 112.061, F.S. Therefore, the provisions of Section 112.061, F.S. apply in this instance. It is likely that the changes to 287.17, F.S. were enacted to allow such state officials as the President of the Senate or Speaker of the House, whose "official headquarters" are located in their respective districts, to use the aircraft for commuting between their district offices and Tallahassee for "official business" purposes.

Requirements for reimbursement for travel when on or not on "official business" and traveling to or from the traveler's "official headquarters" and home were in effect prior to 2004 and remain in effect at the current time. Therefore, those Priority 1 travelers whose "official headquarters" are in Tallahassee should not be using state aircraft to commute between Tallahassee and their homes in other locations in Florida.

Assuming that our interpretation of the statutes are correct, those Priority 1 travelers in our review should be required to repay all costs of the use of state aircraft for commuting between their homes and Tallahassee. Conversely, should it be determined that Priority 1 travelers may use state aircraft for commuting purposes, this would, in effect, be considered a "fringe benefit" and the travelers could be subject to federal income taxes on the costs paid for the aircraft flights.

In order to clarify this issue, we suggest that the Department's General Counsel review this issue. Also, the Department may want to obtain an Attorney General opinion as to whether Priority 1 travelers whose "official headquarters" are in Tallahassee may use the aircraft for commuting purposes and whether the changes to Section 287.17, F.S., conflict with Section 112.061, F.S.

I am available to discuss the results of this review at your convenience.

SR:jwd

cc: Ken Granger, Chief of Staff  
J.D. Solie, Director of Specialized Services  
Mike McClure, Chief, Bureau of Aircraft Operations

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Date <i>2/24/09</i>	Date <i>2/24/09</i>	<i>6/6</i>

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## AUDIT OF AIRCRAFT BILLING PROCEDURES

### MEMORANDUM OF RECORD

Date: February 24, 2009  
Time: 3:55 P.M.  
Subject: **Results of discussion between IG and Audit Director re use of state aircraft by Priority 1 travelers.**

John Davis, Audit Director, discussed with Steve Rumph, IG, the results of the Internal Audit Section's review of aircraft billing procedures. As part of this review, audit staff had raised issues involving the possible use of state aircraft for commuting purposes which is a violation of F.S. 112.061. However, in order to determine that aircraft were actually used for commuting purposes further audit work and possibly investigative work would have to be accomplished. The additional audit/investigative work would involve:

- Obtaining and reviewing travel records and travel itineraries as well as justifications for travel on the state aircraft by Priority 1 travelers. This is problematic as DMS auditors and investigators do not have access to other agency's records. Also discussed was the fact that each agency was responsible for determining whether use of state aircraft was for "official business" or other use. The question arises as to whether, regardless of the results of the Internal Audit Section's review, DMS could state that Priority 1 travel was for "official business" or "commuting".
- Obtaining an Attorney General opinion as to what constitutes "commuting" as commuting is not defined in statutes.

The DMS Secretary had requested a short turn around (two-weeks) on the issue of whether the Department was currently billing passengers correctly. Accomplishing the additional audit/investigative work would likely take months rather than days to accomplish. Also, the issue of use of state aircraft has been referred to the Ethics Commission for review. Therefore, the DMS OIG further investigating the same issue might be construed as infringing upon the Ethics Commission's authority or deliberately trying to influence the outcome of any outside review.

After discussing the above issues it was determined the final report would not address the issue of possible use of state aircraft for commuting purposes by Priority 1 travelers. Therefore, the Audit Director submitted a draft report to the IG (see attachment 1 that includes the IG's edits). This draft does not discuss use of state aircraft by Priority 1 travelers for commuting purposes.

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