

December 20, 2016

Laura Smith  
Rio Blanco County  
200 Main Street, #200  
Meeker, CO 81641

Re: Investigation of Wage and Hour Violations, Harassment


Dear Ms. Smith:

Attached, please find the complete Report regarding the aforementioned Investigation. I have attached the original signed summary statements procured in this process. These are typed on my computer during the interviews before hard copies are reviewed/modified by the participants before signature. Should you have any questions or concerns regarding the substance of this report, please do not hesitate to contact me at 303-223-5558.

Should disciplinary action result against any employee in consideration of this Investigation Report, the Fair Credit Reporting Act requires that the disciplined employee receive a summary of the nature and substance of findings. The "Summary of Findings" section of the Investigation Report is included to support that communication. The Investigation Report is not intended for disclosure to participants or management without a legitimate "need to know." Do not hesitate to contact me to discuss how you might otherwise choose to communicate with participants at the close of this process. For this and all other continuing issues related to addressing behavioral or performance issues, training, follow-up, or other employee relations issues, you are encouraged to seek counsel from MSEC as a function of your membership. Your assigned staff person is Sue Wolf, who is not an attorney, but can make an appropriate referral to a MSEC attorney who will be able to help you with any additional issues that may come up as a result of this investigation.

Thank you for your assistance in the coordination of interviews in this process and thank you for your patience regarding provision of the final investigation report.

Sincerely,  
MOUNTAIN STATES EMPLOYERS COUNCIL, INC.

  
For Maria I. DeHowitt, Esq.  
Workplace Investigations

MDH/jm  
Attachments

**INVESTIGATION REPORT**  
**Confidential Information**  
**Not For Distribution**

**To:** Laura Smith, Director of Human Resources, Rio Blanco County

**Subject:** Investigation of Wage and Hour Violations, Harassment, Retaliation and Discrimination Complaints against Jennifer O’Hearon, Director of Human Services and Public Health and [REDACTED] Human Services Supervisor

**Conducted by:** Maria I. DeHowitt, Workplace Investigator  
Mountain States Employers Council, Inc.

**Date of Report:** December 20, 2016

**Investigation Active:** October 25, 2016 – December 20, 2016

**Procedure:** Laura Smith, Director of Human Resources with Rio Blanco County, contacted Kim DeLuca of Mountain States Employers Council, Inc. (“MSEC”) to perform a workplace investigation regarding [REDACTED] and [REDACTED] allegations of wage and hour violations, harassment and retaliation against Ms. Jennifer O’Hearon and [REDACTED]. Ms. DeLuca explained the investigation process to Ms. Smith and clarified the investigator’s role and the necessary expectations in this process as communicated to all participants and referenced below.

During the course of said investigation, allegations of discrimination based on race and national origin surfaced against Mses. O’Hearon and [REDACTED]. Ms. Smith requested these allegations be investigated, as well.

The undersigned, Maria I. DeHowitt, assumed the role of investigator in this matter. I communicated similar introductory remarks to each witness, and thereafter, prepared written summary statements for each witness. The remarks addressed the purpose of the investigation and my role as a neutral fact finder, Rio Blanco County’s prohibition against retaliation for participation in the investigation and/or making complaints under the equal employment opportunity policy, and the expectation to be truthful. I discussed issues of confidentiality and the importance of treating the entire matter confidentially. Each witness reviewed his or her statement with me. I encouraged each witness to make any additions, deletions, or other modifications necessary to accurately reflect his or her beliefs. Each witness was asked to review his or her statement to ensure completeness and accuracy and attest thereto by signing the summary statement.

Unless otherwise noted, all interviews took place at Rio Blanco County office, 200 Market Street, Meeker, Colorado 81641. I interviewed the following individuals on the dates noted:

October 26, 2016: [REDACTED] *Public Health Supervisor*  
[REDACTED] *Accounting Technician*

October 27, 2016: [REDACTED] *Registered Nurse*  
[REDACTED] *WIC Educator*  
[REDACTED] *Eligibility Specialist*

October 28, 2016: [REDACTED] *Eligibility Specialist*  
[REDACTED] *Head Cook*

October 31, 2016: [REDACTED] *Eligibility Technician*

November 1, 2016: [REDACTED] *Senior Nutrition Meal Site Director*  
[REDACTED] *Supplemental Summary Statement*  
[REDACTED] *Staff Assistant*  
[REDACTED] *Supplemental Summary Statement*

November 2, 2016: [REDACTED] *Supplemental Summary Statement*

November 15, 2016: [REDACTED] *Casework & Eligibility Supervisor*  
Jennifer O'Hearon, *Director of Human Services and Public Health*

- Attachments:**
1. County and Departmental Policies
    - (a) Rio Blanco County Personnel Handbook, Adopted January 1, 2006 (Rev. 10/11/2010)
    - (b) Department of Health and Human Services Policies, (Rev. 12/01/2015)
    - (c) Communication Procedure, Implemented July 20, 2015, Communication Procedure, Implemented (Rev. 2/2/2016)
    - (d) E-mail from Ms. O'Hearon to Staff, re Overtime/comp time, dated September 16, 2015
    - (e) Rio Blanco County Timesheet, Blank (sample)
  2. [REDACTED] Summary and Supplemental Statement
    - (a) Rio Blanco County Time Sheets, dated April 19, 2016 to September 23, 2016
    - (b) Written Complaint filed with Human Resources, dated October 24, 2016
    - (c) E-mail from Ms. O'Hearon to Ms. Singleton, re Public Health Budget, dated October 20, 2016
    - (d) E-mail from Ms. O'Hearon to [REDACTED] re Missed Staff Meeting, dated October 26, 2016
    - (e) Miscellaneous Supplemental E-mails

**Attachments:**  
**(continued)**

3. [REDACTED] Summary and Supplemental Statement
  - (a) Rio Blanco County Time Sheets, dated March 17, 2016 to September 23, 2016
  - (b) Time Conversion Chart
  - (c) Monthly Accounting Checklist dated November 2016
  - (d) E-mail from [REDACTED] to Ms. Smith, re [REDACTED] dated October 9, 2016
  - (e) E-mail from Ms. O'Hearon to [REDACTED] re October Timesheet, dated October 20, 2016
  - (f) E-mail from Mses. O'Hearon and [REDACTED] to Ms. [REDACTED] re YTime Calculations, dated November 1, 2016
  - (g) E-mail from Ms. [REDACTED] to Ms. Smith, re Emails from Jennifer, dated November 4, 2016
  - (h) E-mail from Ms. [REDACTED] to Ms. Smith, re Accounting Controls Draft, dated November 4, 2016
  - (i) Miscellaneous Supplemental E-mails
4. [REDACTED] Summary Statement
  - (a) Rio Blanco County Timesheets, dated January 20, 2015 to October 23, 2016
  - (b) Rio Blanco County Timesheet, dated August 18, 2016  
Rio Blanco County Timesheet, dated August 19, 2016 (Rev.)
  - (c) 100% Reporting, Google Calendar, dated December 30, 2014 to October 23, 2016
  - (d) E-mail thread between Ms. O'Hearon and [REDACTED] re Ms. O'Hearon's Unauthorized Use of [REDACTED] Comp Time, dated October 22, 2015  
Rio Blanco County Timesheet, dated October 22, 2015  
Rio Blanco County Timesheet, dated October 23, 2015 (Rev.)
  - (e) E-mail thread between Ms. [REDACTED] and [REDACTED] re Timesheet Reminder/Entering Hours, dated February 16, 2016  
Rio Blanco County Timesheet, dated January 19, 2016  
Rio Blanco County Timesheet, dated January 22, 2016 (Rev.)
  - (f) E-mail from Ms. O'Hearon to [REDACTED] re Verbal Warning, dated June 29, 2016  
Email from Ms. [REDACTED] to Ms. [REDACTED] re Password, dated July 6, 2016
  - (g) Miscellaneous Supplemental E-mails
5. [REDACTED] Summary Statement
  - (a) Rio Blanco County Time Sheets, dated January 20, 2015 to September 23, 2016
  - (b) Rio Blanco Timesheet, dated October 23, 2016

- Attachments:** (continued)
6. [REDACTED] Summary Statement
    - (a) Rio Blanco County Time Sheets, dated January 20, 2015 to September 23, 2016
    - (b) Rio Blanco County Timesheets, dated July 12, 2015
    - (c) YTime Timesheets
  7. [REDACTED] Summary and Supplemental Statement
    - (a) Rio Blanco County Time Sheets, dated January 20, 2015 to September 23, 2016
    - (b) Complaint (Note to file), undated
    - (c) Miscellaneous Supplemental E-mails
    - (d) YTime Timesheets
  8. [REDACTED] Summary Statement
    - (a) Rio Blanco County Time Sheets, dated January 20, 2015 to September 23, 2016
  9. [REDACTED] Summary Statement
    - (a) Rio Blanco County Time Sheets, dated January 20, 2015 to September 23, 2016
  10. [REDACTED] Summary Statement
    - (a) Rio Blanco County Time Sheets, dated January 20, 2015 to September 23, 2016
    - (b) E-mail from Ms. O'Hearon to Staff, re WRR/Chuckwagon, dated October 21, 2016
  11. [REDACTED] Summary and Supplemental Statement
    - (a) Rio Blanco County Time Sheets, dated January 20, 2015 to September 23, 2016
    - (b) Rio Blanco County Time Sheet with supporting documentation, dated September 23, 2016
    - (c) Staff Assistant Position Tasks, dated January 2016
    - (d) E-mail from Ms. [REDACTED] to Ms. [REDACTED] re Child Care, dated October 26, 2016
  12. [REDACTED] Summary Statement
  13. Jennifer O'Hearon Summary Statement

### Background

Rio Blanco County is located in rural northwestern Colorado. The County has three members that make up the Board of County Commissioners: Shawn Bolton, Chairman; Jeff Eskelson, Commissioner; and Jon Hill, Commissioner. The mission of the Board is to provide the necessary guidelines for the Rio Blanco County government. The Board adopts the budget, sets the mill levy and approves all County cash disbursements. The Board is responsible for keeping

the County in compliance with Federal and State regulations and statutes. The Board acts as the Board of Equalization, the Board of Human Services, and the County Board of Health.<sup>1</sup>

This investigator understands that the Department of Human Services and the Department of Public Health were at one time two separate entities, each with its own director. In January 2014, Jennifer O'Hearon was appointed the Director of Human Services. The incumbent Public Health Director at that time was Jeremy Simmons, who resigned in or around May 2015, leaving the department without a director. Consequently, Commissioner Bolton became the Interim Director of Public Health and Ms. O'Hearon assisted the Commissioner in managing the Department. In August 2015, the Commissioners decided to merge the Departments of Human Services and Public Health under one directorship. They appointed Ms. O'Hearon Director of Public Health. As such, Ms. O'Hearon currently serves as the Director of Human Services and Public Health, and is responsible for managing both departments, in addition to White River Roundup ("WRR"), which falls under the purview of Human Services. White River Round-up is a senior nutrition program designed to provide nutritious meals and social support to seniors aged 60 and over.

One of Ms. O'Hearon's responsibilities is to maintain the fiscal integrity of her departments by ensuring it stays within its allotted budget. This includes establishing overtime and compensatory time policies and procedures, approving department expenditures, determining staffing needs, recommending staff reductions to the Commission, and ensuring appropriate use of Federal and State funding.

Ms. O'Hearon's additional responsibilities include applying for grants; updating contracts, as needed; ensuring approval of MOUs and IGAs and obtaining the necessary signatures; reporting departmental statistics to the Commissioners; and supervision of four direct reports: [REDACTED] Human Services Supervisor, [REDACTED] Public Health Supervisor, [REDACTED] WRR Supervisor, and [REDACTED] Accounting Technician.

A brief summary of each department's staff and services to the community follows below:

#### Department of Human Services

As Human Services Supervisor, Ms. [REDACTED] responsibilities include ensuring the department fulfills its mission of promoting independence and well-being for families and individuals by providing various essential social services within the County. A sampling of its services include: Colorado Works, providing food stamps to eligible low-income households, adult protection, financial assistance for low-income elderly and disabled persons; child welfare, and child care resources.<sup>2</sup>

When Human Services is fully staffed, there are eight employees, including Ms. [REDACTED] three Caseworkers<sup>3</sup>, three Eligibility Technicians, and one Staff Assistant. Ms. [REDACTED] became the

<sup>1</sup> <http://www.co.rio-blanco.co.us/186/Board-of-County-Commissioners>

<sup>2</sup> <http://www.co.rio-blanco.co.us/265/Human-Services>

<sup>3</sup> As the allegations in this case pertain primarily to potential wage and hour violations and the Caseworkers are exempt employees, they were not interviewed. Henceforth, they will not be referenced in this report.

Casework Supervisor in June 2014. In January 2016, Ms. [REDACTED] was given the additional duty of being the Eligibility Supervisor. As Eligibility Supervisor, her responsibilities include only administrative and personnel-related supervision. Ms. [REDACTED] reviews, edits and approves timesheets, submits quarterly and monthly eligibility application reports to the State, and tracks eligibility caseloads. The three Eligibility Technicians she supervises are [REDACTED], [REDACTED] and [REDACTED]. Ms. [REDACTED] also supervises [REDACTED] the Staff Assistant for Human Services.

This investigator understands that Human Services recently implemented a time management software program which tracks the number of hours employees work in various State programs. The software is called YTime: Now! ("YTime"). The software was scheduled to be implemented in Public Health as well. However, to date, this investigator is not aware that the implementation has occurred.

#### Department of Public Health

Public Health is entrusted with the health and well-being of the people of Rio Blanco County. It protects, promotes, and enhances essential public health services by enforcing laws and regulations that protect the health of the public, assures access to personal health services, and develops policies that support and protect the health of the community and the environment.<sup>5</sup> Public Health has five employees, including Ms. [REDACTED] who work in the department.

[REDACTED] is responsible for directing the public health program based on Federal and State funding requirements. Ms. [REDACTED] supervises four part-time staff: [REDACTED] Staff Assistant; [REDACTED] WIC Educator; [REDACTED] Licensed Practical Nurse; and [REDACTED] Registered Nurse. Mses. [REDACTED] work 24 hours per week in three 8-hour shifts. Mses. [REDACTED] each work 32 hours per week in four 8-hour shifts.

#### White River Roundup

The White River Roundup program is its own entity within Human Services. It has two congregate senior meal sites in Rio Blanco County, the Chuckwagon in Meeker and the Radino Center in Rangely.<sup>6</sup> [REDACTED] is WRR's supervisor. Her responsibilities include working with a Dietician to plan menus for the seniors, coordinating the senior meals and the grocery orders, tracking the number of seniors that are fed, and supervising two cooks: [REDACTED] Head Cook at Chuckwagon and [REDACTED] Cook in Radino. Until recently, Ms. [REDACTED] also acted as relief cook when one of the cooks was on leave.

### **Summary of Issues**

Ms. [REDACTED] and Ms. [REDACTED] filed a complaint on October 9 and October 24, 2016, respectively, with Human Resources against Ms. O'Hearon and Ms. [REDACTED] on behalf of

<sup>4</sup> Ms. [REDACTED] was terminated on October 31, 2016. She entered nursing school and could work only 8 hours per week. This investigator understands that the County could not accommodate her new schedule and discharged her.

<sup>5</sup> <http://www.co.rio-blanco.co.us/282/Public-Health>

<sup>6</sup> <http://www.co.rio-blanco.co.us/279/White-River-Roundup>

themselves and other employees who are allegedly too fearful to come forward. The complaint identifies allegations pertaining to non-payment of wages, falsification of timesheets, misuse of funds, creating a fear-based and retaliatory work environment, and issuing directives to prevent employees from communicating directly with the Commissioners and other department heads.

In essence, Mses. [REDACTED] and [REDACTED] allege that Jennifer O’Hearon implemented “No Overtime” and “No Compensatory Time” policies, which negatively impact the compensation of all full- and part-time, non-exempt employees. Specifically, the policies prohibit any non-exempt employee from working overtime<sup>7</sup> hours and accruing compensatory time, also referred to as “comp” time.

This investigator understands that the County’s compensation system allows for full-time, non-exempt employees to accrue compensatory time, rather than receive wages when they work overtime. In fact, the County’s default for payment of overtime is compensatory time. If employees wish to receive wages instead of compensatory time, they simply alert the budget office. Otherwise, employees “[r]eport the Actual Hours Worked – the payroll software will automatically gross up (Times 1.5) both the Overtime and Comp Time hours recorded.”<sup>8</sup>

For every hour of overtime that employees work, they receive 1.5 hours in compensatory time. Employees are permitted to use their compensatory time whenever they wish. Compensatory time for part-time, non-exempt employees works similarly. However, part-time employees receive a 1:1 ratio and do not begin to accrue 1.5 hours of compensatory time until they exceed a 40-hour work week.

Mses. [REDACTED] and [REDACTED] also allege that Ms. O’Hearon and Ms. [REDACTED] require all non-exempt employees to enter on their payroll timesheets only the hours they have been assigned to work, rather than to accurately reflect the hours they actually worked. Mses. [REDACTED] and [REDACTED] further allege that Mses. O’Hearon and [REDACTED] reject payroll timesheets that reflect employees having worked more than their assigned hours. Consequently, non-exempt employees are not being compensated for all the hours they work, and compensatory time for full-time employees is calculated at a 1:1 ratio, rather than at a 1:1.5 ratio.

Ms. [REDACTED] alleges that employees are forced to manipulate their YTime timesheets so that the hours documented in YTime matches those entered into their payroll timesheets. If employees fail to match their payroll timesheets, Ms. O’Hearon rejects their timesheets and directs Ms. [REDACTED] to change employees’ hours on YTime to mimic employees’ payroll timesheets.

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<sup>7</sup> For purposes of this report, “overtime” refers to hours worked over 40 hours per week or 12 hours per day, as well as hours that part-time employees work in excess of the scheduled hours they are assigned to work. For example, a part-time employee who works 36 hours in one week, yet is only scheduled to work 32 hours per week, would have 4 hours of overtime.

<sup>8</sup> This statement is printed on the bottom of Rio Blanco Timesheets used non-exempt employees in Human Services and Public Health.



In addition to compensation issues, Mses. [REDACTED] and [REDACTED] allege that Ms. O'Hearon creates a fear-based work environment in which she intimidates, belittles, and demeans her staff. They and other witnesses provide examples, which are discussed in Allegation 5 in greater detail. Lastly, Mses. [REDACTED] and [REDACTED] claim that the entire staff is afraid of Ms. O'Hearon and fear that she will retaliate against them if she is challenged or angered by anyone of them.

During Ms. [REDACTED] interview on October 31, 2016, she raised additional concerns regarding possible discrimination and unfavorable bias based on race and national origin by Ms. O'Hearon and Ms. [REDACTED] due to their frequent use of racial slurs and epithets.

Each of the pertinent allegations will be addressed individually. This investigator recommends that the reader of this report entertain the potential application of wage and hour violations, unlawful harassment, retaliation, and discrimination to each asserted instance of negative or unfair treatment identified by Mses. [REDACTED] and [REDACTED] and other employees as this investigator has attempted to do.

### Investigator Findings

This section identifies the pertinent allegations, followed by identification of specific sources of supporting or refuting information. Investigator commentary follows to develop specific areas of concern, address credibility assessment, or provide other subjective comment. *For a comprehensive understanding of the issues presented here it is recommended that each summary statement be reviewed individually.* Unless otherwise noted, all information quoted below comes from the summary statements.

**Allegation 1:** [REDACTED] and [REDACTED] allege that Jennifer O'Hearon implemented two policies throughout her departments: i) a "No Overtime" policy prohibiting non-exempt, full- and part-time employees from working overtime; and ii) a "No Compensatory Time" policy preventing employees from accruing compensatory time.

#### Supporting Information:

Ms. [REDACTED] recalls Ms. O'Hearon advising her in March 2016, when she began working in Public Health as the part-time Staff Assistant, "The department does not permit comp time." See Attachment 3.

Ms. [REDACTED] asserts that Ms. O'Hearon informed her that "the county is getting rid of comp time and that staff is not allowed to accrue comp time." Ms. [REDACTED] states that Ms. O'Hearon's policy is that a supervisor must approve, in advance, staff working longer than their scheduled hours. She adds, "Unless I approve overtime, they [staff members] cannot have any OT." Ms. [REDACTED] avers, however, that there are occasions when overtime cannot be helped because sometimes clients visit the department late in the day. Ms. [REDACTED] states that her

staff work less than 40 hours per week, so if they stay late, Ms. O'Hearon has instructed them to leave early the following day. *See* Attachment 2.

Ms. [REDACTED] recollection is that on or about September 16, 2015, Ms. O'Hearon implemented a "No Comp Time" policy. *See* Attachment 1(d). She adds, "Jennifer further directed the staff to use all of our comp time before we use any sick or vacation time." *See* Attachment 4(d).

Similarly, Ms. [REDACTED] states that during a staff meeting approximately one year ago, Ms. O'Hearon informed the staff that overtime was not allowed and that they were no longer permitted to accrue compensatory time. *See* Attachment 6.

Ms. [REDACTED] and Ms. [REDACTED] recall these policies taking effect in or around January 2016 when Ms. [REDACTED] assumed her supervisory responsibilities in Human Services. Ms. [REDACTED] asserts that Ms. O'Hearon and Ms. [REDACTED] "blame the Commissioners" and informed the staff that "the Commissioners told them to eliminate comp time." According to Ms. [REDACTED] Ms. [REDACTED] yells, "You've all been told before no comp time, no overtime. Don't work more than your hours!" *See* Attachment 9. Ms. [REDACTED] states that in or around January 2016, Ms. [REDACTED] informed her that she is not permitted to "take any comp time." Ms. [REDACTED] states, "Prior to approximately December 2015, I used to be able to take compensatory time for any overtime I worked. Now, our department is not allowed to take comp time." *See* Attachment 7.

Ms. [REDACTED] states that prior to Ms. O'Hearon assuming the position of Director, she was able to reflect overtime hours as compensatory time on her timesheet. Ms. [REDACTED] indicates that she can no longer do this because "Jennifer has implemented a policy of no overtime and no comp time." *See* Attachment 10.

Ms. [REDACTED] states that she is not allowed to accrue compensatory time. Ms. [REDACTED] recalls that the previous supervisor, [REDACTED] never explicitly told her that she could not accrue compensatory time. She avers, "Jennifer and [REDACTED] on the other hand, unequivocally told us at the staff meeting that going forward 'there would be no comp time.'" Ms. [REDACTED] adds, "Whereas in the past I may have stayed to finish up whatever I was working on, I no longer do that." Presently, however, Ms. [REDACTED] alleges that since she will not be compensated for working overtime, she no longer stays. *See* Attachment 11.

**Refuting  
Information:**

Ms. O'Hearon denies that there is a "No Overtime" policy. According to Ms. O'Hearon, the department's policy on overtime is that staff must obtain her permission prior to working overtime or extra hours. If the overtime is foreseeable, Ms. O'Hearon states that she makes the determination on whether or not to authorize the extra hours. If it is not possible to obtain prior approval due to unforeseen circumstances, employees must let Ms. O'Hearon know as

soon as possible. She adds, "When it is not foreseeable, I don't have control over it. If they worked it, they have it." Ms. O'Hearon states that in such situations, she has asked staff to come in later the following day or take a longer lunch for the extra hours they've worked. Ms. O'Hearon also maintains that both part-time and full-time employees have the option of deciding how to use the extra hours they work. *See Attachment 13.*

Ms. [REDACTED] as well, maintains that the policy in Human Services is that overtime is not permitted without prior approval from Ms. O'Hearon. "To my recollection, this has been her [Ms. O'Hearon] directive since she became director," states Ms. [REDACTED] *See Attachment 12.*

Regarding the compensatory time policy, Ms. O'Hearon avers that Ms. [REDACTED] was having difficulty keeping track of employees' compensatory time and recommended eliminating it. Ms. O'Hearon states, "I agreed with disallowing comp time because I could not fathom the reason employees were incurring overtime hours when I would see a lot of socializing happening within work hours." Ms. O'Hearon further explains that when she took over Public Health, she discovered that Ms. [REDACTED] Ms. [REDACTED] and other former employees worked whenever they wanted to work. She underscores her responsibility for ensuring that County funds are properly managed.

Ms. [REDACTED] acknowledged the policy on disallowing compensatory time. According to Ms. [REDACTED] when employees work overtime, they use the overtime hours as "flex time," a term Ms. [REDACTED] states she uses in place of "comp time." Ms. [REDACTED] adds, "In my mind, there is no reason why there should be any overtime because our Eligibility Techs carry 1/3 to 1/2 of the caseload that other counties structured similarly to Rio Blanco carry. To me, this means that potentially our Techs are not utilizing their time as they should be."

Ms. [REDACTED] admits that she has not been trained in the eligibility process and declares that a condition of her accepting the position of Eligibility Supervisor was that she would not be involved in eligibility process. She explains that the Eligibility staff is aware of this and that any questions pertaining to CBMS should be directed to the State or to an employee in Garfield County.

**Comment:** In this investigator's opinion, there is sufficient information to support that Ms. O'Hearon established two separate policies, one regarding overtime and the other regarding compensatory time, especially in light of the e-mail dated September 16, 2015 that Ms. O'Hearon sent to staff. The information is also sufficient to establish that there are no outlying issues regarding the policy on compensatory time. The employees understand, and Ms. O'Hearon confirms, that they are not permitted to accrue compensatory time. Rather, if employees are owed compensatory time, they must use their hours within the same week.

Employees must advise their supervisors as to when they are taking time off. The hours are exchanged at a 1:1 ratio. Rarely are employees permitted to carry over the hours to the following week. This investigator does not opine or analyze the legal implications of the policy on compensatory time as it is outside the scope of this investigation on factual allegations.

Regarding the overtime policy, there appears to be a difference of opinion on how to interpret the policy. Ms. O'Hearon claims that she allows overtime on rare occasions and with one week prior, written approval. *See Attachment 1(d)*. Conversely, many of the employees are under the impression that they are not permitted to work overtime. This statement appears not entirely false. Ms. O'Hearon and Ms. [REDACTED] have repeatedly advised employees that overtime is not allowed. To clarify, though, it seems overtime is allowed only when employees have obtained prior approval. Ms. O'Hearon provides a legitimate business purpose for regulating overtime, which is maintaining the fiscal integrity of the departments' budgets. This investigator does not opine or analyze the legal implications of the policy on overtime as it is outside the scope of this investigation on factual allegations.

Ms. O'Hearon does not want employees to have unfettered discretion to work overtime. Rather than allowing employees to decide when and why they work overtime, she implemented a policy that significantly regulates overtime.

Ms. O'Hearon now requires employees to submit a written request to their supervisor justifying the necessity for overtime and receive approval in advance of working overtime. All overtime requests must be approved by Ms. O'Hearon and it is within her sole discretion to approve or deny their request. Thus, it is not necessarily that the policy prohibits overtime, but rather that it greatly limits the staff's ability to work overtime without accountability. When couched in this manner, all witnesses are in agreement concerning the scope and extent of the overtime policy. The manner in which this policy impacts employees and the credibility of all parties is discussed in more detail in allegations that follow.

Based on the foregoing, this investigator finds it more likely than not that Ms. O'Hearon implemented two policies throughout her departments: i) a "No Overtime" policy prohibiting non-exempt, full- and part-time employees from working overtime without prior approval; and ii) a "No Compensatory Time" policy preventing employees from accruing compensatory time.

**Allegation 2:** [REDACTED] and [REDACTED] allege that Jennifer O'Hearon dispossess non-exempt employees of their proper compensation. Specifically: i) non-exempt employees are not compensated when they work overtime; ii) full-time employees are deprived of exchanging their hours at a 1:1.5 ratio as overtime compensation; and iii) employees are directed to record only the hours they are assigned and not the hours they truly work.

**Supporting  
Information:**

According to Ms. [REDACTED] employees who work overtime and do not accurately reflect their overtime hours because of Ms. O'Hearon's policies are not receiving overtime wages or properly calculated compensatory time. Ms. [REDACTED] further avers, "From my understanding, since they are not officially permitted to take comp time, employees who are in that situation, are required to take straight comp time 'off-the-books.'" Ms. [REDACTED] also maintains that Ms. [REDACTED] and Ms. [REDACTED] have not been properly compensated for the overtime hours they have worked.

Ms. [REDACTED] avers that during Human Services staff meetings, Ms. O'Hearon instructs the staff to only record 40 hours on their timesheets. After transitioning from part-time to full-time, Ms. [REDACTED] recounts her personal experience with working overtime. She states that on October 7, 2016, she verbally asked Ms. O'Hearon if she could work over the weekend because she was behind on some of her reports. She also states that Ms. O'Hearon verbally authorized the overtime she would incur over the weekend.

Ms. [REDACTED] asserts that she tracked her hours on YTime and subsequently included the overtime hours on her payroll timesheet. She says, "When I submitted my October timesheet on October 19, 2016, I received an e-mail from Jennifer reprimanding me for putting the [overtime] hours on my timesheet." The e-mail reads, "In the future, if you are going to work overtime you need to send me an email, to request this time, in advance. I know we talked about it, but I assumed when you were working that weekend, you would be taking time off the next following week." See Attachment 3(e).

In another example, Ms. [REDACTED] recounts that on October 14, 2016, she attended an Audit training in Denver with Ms. O'Hearon. She states that she worked approximately 12.5 hours that day due to the travel time. According to Ms. [REDACTED] "I started to realize that our work time was not being tracked correctly. I wanted to get Jennifer's response." Thus, Ms. [REDACTED] asked Ms. O'Hearon how she wanted her to reflect the hours on her timesheet. Ms. [REDACTED] states that Ms. O'Hearon verbally directed her to "only put down 8 hours for Friday, and the 4.5 hours take off the following week, and just record your 8 hours for that day, as well."

Ms. [REDACTED] avers that when Ms. O'Hearon was training her on how to approve timesheets, Ms. O'Hearon advised her that every entry on employees' timesheets needed to reflect only the hours that each employee was scheduled to work, and not the hours they actually worked. Ms. [REDACTED] states that she was very overwhelmed with the responsibilities of this new position, and she did not question Ms. O'Hearon's directive.

Ms. [REDACTED] recounts one of Ms. O'Hearon's comments, "These girls and their time cards. [REDACTED] always comes to me perfect." Ms. [REDACTED] states that the reason for this is that Ms. [REDACTED] does not document any hours that she works over her scheduled 24 hours per week. *See* Attachment 2. Ms. [REDACTED] confirms that Ms. O'Hearon has not rejected her timesheets because "I make sure that the total hours recorded for the four-week pay period equals 96 hours." Ms. [REDACTED] states that she records only the hours that she is assigned to work because she "just wants to stay under the radar." Ms. [REDACTED] asserts that Ms. [REDACTED] informed her that it is "well known" that if Ms. [REDACTED] works over 8 hours per day, she comes in late the following day. *See* Attachment 5.

Ms. [REDACTED] recites a recent conversation she had with Ms. [REDACTED] concerning her hours and recalls Ms. [REDACTED] telling her that she worked longer hours than what she actually documented on her time card. Ms. [REDACTED] states that on occasion she must work more than 8 hours per day because sometimes there are clients that may arrive near closing. She asserts that her main concern is to accommodate clients because they are the ones that are most likely needing the assistance.

Ms. [REDACTED] states that on October 20, 2016, she was scheduled to leave work after working 7 hours. However, she was not able to leave because IT was working on her computer. Ms. [REDACTED] avers that she actually worked 9.5 hours, but did not record the extra 2.5 hours because she did not want Ms. [REDACTED] or herself to go through "Jennifer's wrath." *See* Attachment 5(b).

Despite Ms. [REDACTED] insisting that Ms. [REDACTED] adjust her hours, Ms. [REDACTED] states, "It is simply not worth the hoops I would have to go through or put [REDACTED] through to get approval." Ms. [REDACTED] states that she did not get paid for those 2.5 hours.

According to Ms. [REDACTED] every month she works 3 to 4 hours over her scheduled hours, for which she does not get paid. Additionally, Ms. [REDACTED] states that since she only works three days a week, and is therefore somewhat inaccessible to her clients, she also works evenings and weekends on her own time. Ms. [REDACTED] states that she does not expect to be compensated for this time as it is her decision to give clients her phone number.

Ms. [REDACTED] recounts another incident on August 18, 2016 involving Ms. [REDACTED] timesheet. Ms. [REDACTED] submitted her timesheet to Ms. [REDACTED] which reflected that during the week of August 8, she had worked 8.25 hours each day from August 8 to 11, 2016. Ms. [REDACTED] indicates that she approved Ms. [REDACTED] timesheet and forwarded it to Ms. O'Hearon for final approval. *See* Attachment 4(b).

According to Ms. [REDACTED] when Ms. O'Hearon saw that Ms. [REDACTED] had worked an extra 15 minutes each day, she instructed Ms. [REDACTED] to return the timesheet to Ms. [REDACTED] stating, "Give this back to [REDACTED] because if she did not write you an e-mail to preapprove the overtime, tell her to take the extra time off." Ms. [REDACTED] states, "I took the timesheet back to [REDACTED] and she took off the extra 15 minutes she worked for each of the four days, and resubmitted a different timesheet." See Attachment 4(b).

Confirming Ms. [REDACTED] account, Ms. [REDACTED] avers, "On August 18, 2016, I submitted my August timesheet and recorded 8.25 hours on August 8 through 11, 2016—Monday, Tuesday, Wednesday, and Thursday. Jennifer rejected the timesheet because of the extra 15 minutes I had worked on each of those days. [REDACTED] brought the timesheet back to me and informed me that Jennifer wanted me to redo my timesheet so that each week totaled to 32 hours, even though this was an inaccurate record of the hours I worked." Ms. [REDACTED] maintains, "Jennifer instructs us to record only the hours that we are scheduled to work each day, regardless of whether or not we worked those hours."

Ms. [REDACTED] states, "My understanding is that as long as my total hours for the four weeks equal to 128 hours, it does not matter that the weekly hours do not equal exactly 32 hours. This was the way I learned to complete my timesheet while [REDACTED] was the Director. See Attachment 4(d). However, Ms. O'Hearon takes liberty in adjusting timesheets. *Id.*

Ms. [REDACTED] avers that if she works a substantial number of hours over 32 hours during one week, she will sometimes take time off the following week and that Ms. O'Hearon does not mind staff managing their extra hours in this manner. However, according to Ms. [REDACTED] "Most of the time, I simply do not get paid for any time that I have worked over 32 hours per week." Ms. [REDACTED] adds that she is not able to use the extra hours for leave because the amount of work she must complete in a week does not necessarily permit her to arrive late or leave early.

Ms. [REDACTED] avers that under the previous director, the staff received compensatory time at a rate of 1.5 times their regular rate. "Being compensated with comp time for the overtime hours was not an issue prior to Jennifer becoming the director," states Ms. [REDACTED] She adds that she is not working any differently now than she worked when she first started working for the County.

Ms. [REDACTED] acknowledges a similar understanding of Ms. O'Hearon's policies on overtime and compensatory time, "Because we don't get comp time or overtime, we cannot declare more than 8 hours per day, and 40 hours per week. So now, when I work over 40 hours per week, I don't record the actual hours."

Nevertheless, at present, if Ms. [REDACTED] is approved to work overtime, the compensatory time she receives is calculated at a 1:1 ratio. This means that if she works 2 hours of overtime, she is allowed to take only 2 hours of leave, rather than 3 hours of leave. Ms. [REDACTED] asserts that she has not had a timesheet rejected because she never records more than 40 hours per week on her timesheet, even if she works overtime. *See Attachment 6.*

Ms. [REDACTED] explains why she and her co-workers must sometimes work overtime. According to Ms. [REDACTED], the State imposes filing due dates on certain eligibility applications, which Eligibility Technicians must meet. She indicates that she works overtime to ensure she timely meets the States filing requirements. Ms. [REDACTED] explains that in the Food Stamp program, if the applicant does not have any income the State requires completion of the application within seven calendar days. The issue arises when it is difficult for the applicant to come in for the verification process within the time allotted. There are also times when they receive a large influx of new cases or are reassigned cases and other duties when a co-worker is terminated.

Ms. [REDACTED] also acknowledges that during a September 2016 staff meeting, Ms. [REDACTED] informed the staff that Ms. O'Hearon wants the staff to clock in at 8:00 a.m. and clock out at 4:00 p.m., even in cases where staff work overtime. Ms. [REDACTED] is baffled as to why "we are not able to get reimbursed for hours that we work." She asserts that it is not fair for the employees. Ms. [REDACTED] maintains, "[I]f I have something that needs to be completed, I should not be afraid to finish for fear of getting reprimanded because I stayed 15 minutes over."

Ms. [REDACTED] indicates that she frequently had to work over 32 hours in order to competently perform her duties. Ms. [REDACTED] avers that Ms. [REDACTED] instructed her to ensure that her timesheets do not reflect more than the 32 hours per week she is assigned. According to Ms. [REDACTED], Ms. [REDACTED] stated, "If your timesheet doesn't add up to 32 hours per week before you submit it to me, then you might as well not turn them in because Jen won't approve them anyway since Jen doesn't allow comp time." *See Attachment 9.*

Ms. [REDACTED] calculates that since November 2015, she has not been paid for approximately 100 hours. She bases this calculation on the numerous occasions that she returned to the office after picking up her daughter from daycare to continue working.

Ms. [REDACTED] explains that the majority of staff does not record their actual hours because they know they will be "yelled at, both by Jennifer and [REDACTED]." She states, "It was easier not to accurately record our time and stay as long as we needed to stay to make sure we performed our duties satisfactorily." Ms. [REDACTED] further explains that when staff miss deadlines, enter data incorrectly, or do not



obtain verification documents from applicants, Ms. [REDACTED] yells and admonishes them for lowering their stats.

Ms. [REDACTED] explains that Ms. [REDACTED] does not understand the scope of job duties performed by the Eligibility Technicians; and further, Ms. [REDACTED] does not care to learn. According to Ms. [REDACTED] "It's frustrating because when I would try to explain to [REDACTED] the various nuances of performing eligibility verification, she yelled over me and did not care to know. [REDACTED] premise is that because the State says it takes X number of hours to complete a task, we should be able to complete it within that timeframe." However, Ms. [REDACTED] clarifies that their job descriptions with Rio Blanco County demand they perform tasks that in larger counties, other employees perform." She states the varied responsibilities of the Eligibility Specialists in Rio Blanco as one of the reasons the staff must, at times, work extra hours.

Ms. [REDACTED] avers that due to the department's policy on compensatory time, "I am not allowed to clock in when I arrive to work." She adds, "In any case, as Staff Assistant, I generally did not accrue much, if any, comp time." See Attachment 11.

Nevertheless, Ms. [REDACTED] states that she usually arrives to work by 8:45 a.m. and must clock out at 5:00 p.m. because the staff is only allowed to claim the hours they are scheduled to work, even if they work longer hours. Ms. [REDACTED] asserts, "Now, I clock in a few minutes before 9:00 a.m. and clock out a few minutes after 5:00 p.m."

Ms. [REDACTED] does not dispute the above statements and confirms the accounts of the above witnesses. She states, "If employees go to a training and they work 44 hours that week, the following week they would work 36 hours to make up for the time they worked over their 40 hours. It is up to each employee to keep track of flex time in their calendar. It is not accumulated and they should take it as soon as possible." She explains that in these situations, "I have instructed my staff to document 40 hours for the week they worked 44 hours and to document 40 hours for the week they work 36 hours. Jennifer has reiterated this policy to all of us time and time again during staff meetings. It has been a recurring mandate." Ms. [REDACTED] further confirms that if employees wish to be paid for the extra hours, "they would need to go through Jen." See Attachment 12.

**Refuting  
Information:**

Ms. O'Hearon denies that employees are not paid when they work overtime. She maintains that if employees are working additional hours, they are taking that time off elsewhere during that same week or the following week.

Ms. O'Hearon states, "When I approve employees' timesheet, I add up their hours to make sure that their calculations equal the number of hours they are

assigned to work each week. I was taught by the Budget office that when an employee works over the allotted hours their time is placed in a comp time account. They can accumulate hours and use the hours in the future.”

Ms. O’Hearon, however, indicated that she prefers employees use their compensatory time the same week or shortly thereafter. She adds, “If the employee works extra hours during that week, I have sent employees home so that they do not incur the extra hours.” Ms. O’Hearon states that employees need to let their supervisors know when they are taking leave so that supervisors can denote it into the leave calendar. She asserts, “To my knowledge, this is occurring between supervisor and employee.”

According to Ms. O’Hearon, she was unaware that compensatory time should be calculated at 1.5 times the regular hours worked. Ms. O’Hearon asserts, “I did not realize the impact that this policy was having on employees and the fact that they have not been compensated properly. We will have to correct that and compensate them for that time.”

Ms. O’Hearon repudiates the assertion that she instructs her staff to enter inaccurate hours on their timesheets so as not to reflect overtime or extra hours.

Ms. O’Hearon states that she does not recall telling Ms. [REDACTED] to record only 40 hours the week that she worked overtime, and 40 hours the week during which she would take time off. Rather, Ms. O’Hearon states that when Ms. [REDACTED] asked to come in over the weekend to work, she told Ms. [REDACTED] to take a day off the following week in lieu of recording overtime.

**Comment:**

This investigator finds Ms. O’Hearon’s responses less than forthright based on several factors. Most prominent is the fact that Ms. O’Hearon is the only witness repudiating what appears to be a well-known fact across her departments—staff may only record on their timesheets their assigned hours. The most compelling witness in this case seems to be Ms. [REDACTED] because of the apparent loyalty she has to Ms. O’Hearon. Ms. [REDACTED] nevertheless, clearly elucidates that Ms. O’Hearon has made this directive a recurring mandate during staff meetings.

In theory, the overtime policy appears to serve a justifiable business purpose of ensuring the departments remain fiscally accountable for expenditures. In practice, however, the application of this policy has a negative impact on the compensation paid to non-exempt, full-time employees because they are not being compensated, in wages or time, for the additional hours they have worked. Even if they opt to take compensatory time, according to Ms. O’Hearon’s new parameters, full-time employees are only receiving a 1:1 exchange ratio for their overtime hours versus a 1:1.5 ratio previously paid.

This investigator, again, comments only on the factual allegations and leaves the legal analysis of this system to the decision-makers in Rio Blanco County.

Here Ms. O'Hearon states that she was unaware that compensatory time should also be calculated and paid at 1.5 times the amount of straight time. This investigator finds this incredulous because at the bottom of every timesheet is a statement reflecting this exact procedure. See attachment 1(e).

The "No Compensatory Time" policy is more problematic because there does not appear to be a justifiable business purpose for disallowing this policy. According to Ms. O'Hearon and [REDACTED] they state the primary reason compensatory time is disallowed is because neither believes the staff should be incurring any overtime hours. In other words, they simply do not see the necessity of it.

According to Ms. O'Hearon, she cannot "fathom the reason employees were incurring overtime hours." Ms. [REDACTED] shares a similar sentiment. Both Ms. O'Hearon and [REDACTED] speculate that non-exempt employees are mismanaging their time and socializing too much. It should be noted, though, that because Ms. O'Hearon and [REDACTED] do not have a realistic understanding of what these positions entail, their assessment that overtime is superfluous is most likely incorrect.

Ms. O'Hearon also makes multiple assertions that "ultimately employees decide how to use their extra hours" and insists that if employees work overtime, they get paid or are allowed to use the extra hours as leave. The greater part of the witnesses statements contradicts her claim.

As additional support, this investigator was provided with staff payroll records dating from January 2015 to the present. This investigator considers the multiple witness statements, describing similar experiences with respect to employees' compensation discrepancies and evaluates the statements against the backdrop of evidentiary documents. When employees' payroll timesheets are compared to the YTime timesheets, it becomes evident that certain employees have not received remuneration for overtime hours they have worked.

For example, in the case of Ms. [REDACTED] her July timesheet dated July 20, 2015, reflects that she worked 10 hours on Sunday July 12, 2015. Ms. [REDACTED] submitted the timesheet with a total of 210 hours for the pay period. This time period consisted of five weeks. Her timesheet was adjusted by crossing out the 10 hours Ms. [REDACTED] worked on Sunday, which decreased her total hours from 210 to 200 hours for the pay period, which is the amount of hours she would have worked without overtime. See Attachment 6(b).

In Ms. ██████ case, she worked an extra 15 minutes on August 8 to 11, 2016. Her timesheet was rejected because the total hours reflected 1 extra hour of work. Ms. O'Hearon required Ms. ██████ to submit a new timesheet without the extra 15 minutes per day she accrued. See Attachment 4(b).

These are merely two illustrations to demonstrate the compensation methods practiced in Human Services and Public Health under the direction of Ms. O'Hearon. This investigator finds that the documentary evidence supports the witness statements. Therefore, this investigator finds the witness statements to be credible.

Based on the foregoing, this investigator finds it more likely than not that Jennifer O'Hearon dispossess non-exempt employees of their proper compensation. Specifically: i) non-exempt employees are not compensated when they work overtime; ii) full-time employees are deprived of exchanging their hours at a 1:1.5 ratio as overtime compensation; and iii) employees are directed to record only the hours they are assigned and not the hours they truly work.

**Allegation 3:** Ms. ██████ alleges that Ms. O'Hearon requires staff to manipulate the hours they log on their YTime timesheet to match the hours they record on their payroll timesheet, and directs Ms. ██████ to enforce the requirement.

**Supporting Information:**

Ms. ██████ states that Ms. O'Hearon has had meetings with Human Services impressing on them the importance of YTime and payroll timesheets matching precisely for auditing purposes. Namely, on October 6, 2016, Ms. O'Hearon, ██████ and ██████ were having a meeting regarding YTime timesheets. According to Ms. ██████ Ms. O'Hearon was rejecting timesheets because days or hours were missing from some employees' YTime timesheets. Additionally, Ms. ██████ remembers Ms. O'Hearon complaining that employees were recording the actual hours they worked in YTime, creating a discrepancy between YTime and payroll timesheets. See Attachment 3(d).

Ms. ██████ claims that Ms. O'Hearon directed Ms. ██████ to alert the staff "to clock out at their scheduled departure time, even if they need to continue working." Ms. ██████ explains that Ms. ██████ is responsible for verifying the timesheets and ensuring that any missed days or hours are entered into the individual YTime timesheet. Ms. ██████ acknowledges her responsibility. According to Ms. ██████ Ms. O'Hearon said, "We'll just have to work it out later."

Ms. ██████ provides two August 2016 timesheets, one from YTime and the other from payroll to demonstrate the directive in practice. See Attachment 7(a) & (d). Ms. ██████ states that her YTime timesheet reflects that she worked

approximately 2 hours of overtime in August. In her original payroll timesheet that she submitted to Ms. [REDACTED] Ms. [REDACTED] correctly documented the overtime hours she worked. However, Ms. [REDACTED] avers that Ms. [REDACTED] “rejected my timesheet and instructed me to only document 8 hours every day, despite the fact that I worked over 8 hours on certain days.” When Ms. [REDACTED] responded, “I followed my YTime hours,” to Ms. [REDACTED] she answered, “Well, you know, you can take a longer lunch or leave early.” Ms. [REDACTED] opines, “I don’t think it’s fair, but nevertheless, this is how [REDACTED] directed me to complete my timesheet.”

Ms. [REDACTED] understanding of how she should enter her hours in YTime is by recording the actual hours she works. Nonetheless, Ms. [REDACTED] admits that she does not know the consequences when YTime and payroll timesheets do not match. Ms. [REDACTED] says, “I have heard co-workers comment on changing the YTime timesheets to match payroll timesheets.” When pressed, Ms. [REDACTED] states that she does not recall who made this comment and could not elaborate any further.

#### **Refuting**

**Information:** Ms. [REDACTED] explains that she has the responsibility of monitoring YTime, which involves correcting employees’ start and end times, ensuring employees hours are allocated to the correct program, and making notes regarding the edits. Ms. [REDACTED] states, “It is a huge task and at times insurmountable for me.” According to Ms. [REDACTED] Ms. O’Hearon tasked her and Ms. [REDACTED] with ensuring that at the end of the YTime cycle, the hours reflected in YTime, payroll, and employees’ calendars match precisely for auditing purposes. Ms. [REDACTED] cautions, however, that the conversion to minutes in YTime is inaccurate, and is possibly miscalculating employees’ hours. *See* Attachment 3(f).

**Comments:** *See* also Allegation 2, Comments.

Ms. O’Hearon admits that YTime and payroll timesheets must reflect identical hours to pass audit exams. She also admits to having a meeting in October 2016 with Ms. [REDACTED] and Ms. [REDACTED] to discuss the issue of non-matching timesheets because she was receiving YTime timesheets that reflected different hours than payroll timesheets. Lastly, Ms. O’Hearon verified that Ms. [REDACTED] is responsible for ensuring the timesheets match before forwarding them to her for final approval. Ms. O’Hearon, however, denies instructing her staff to inaccurately record their hours in YTime.

In reviewing the numerous employee timesheets, this investigator discovered that on August 11, 2016, Ms. [REDACTED] decreased Ms. [REDACTED] driving hours from 3.66 hours to 1.30 hours in her August YTime Timesheet. *See* Attachment 6(c). This investigator presented the timesheet to Ms. [REDACTED] and

requested that she explain why she changed Ms. [REDACTED] timesheet. Ms. [REDACTED] reviewed Ms. [REDACTED] August timesheet, which clearly shows that Ms. [REDACTED] changed her hours. Nevertheless, Ms. [REDACTED] denies changing Ms. [REDACTED] driving hours. Ms. [REDACTED] states that she has "never seen" the timesheet. Ms. [REDACTED] further states that if she had seen it, she would have asked Ms. [REDACTED] "Did you get this approved by Jen?"

By her own admission, Ms. [REDACTED] acknowledges that she is solely responsible for monitoring employees' YTime hours and ensuring that no discrepancies exist between YTime and payroll. Yet, when confronted with two serious errors, Ms. [REDACTED] feigns ignorance. This investigator believes this is an example of Ms. [REDACTED] impugning responsibility to her staff for her errors.

Allegation 2, above, establishes that at the direction of Ms. O'Hearon, staff are entering inaccurate hours on their payroll timesheets so as not to reflect extra hours worked, whether or not those hours constitute overtime. Given this scenario, it is only logical that if staff members' are entering accurate work hours in YTime, those timesheets will not match payroll's timesheets. Employees would need to enter the same inaccurate hours they enter in their payroll timesheets so that both reflect an equal number of hours. Therefore, this investigator finds little to no contradictions that the allegations are reliable.

Based on the foregoing, this investigator finds it more likely than not that Ms. O'Hearon requires staff to manipulate the hours they log on their YTime timesheet to match the hours they record on their payroll timesheet, and directs Ms. [REDACTED] to enforce the requirement.

**Allegation 4:** [REDACTED] alleges that [REDACTED] recorded false entries on [REDACTED] YTime timesheet.

**Supporting Information:**

[REDACTED] recounts that on or about October 4, 2016, Ms. O'Hearon had a meeting with Ms. [REDACTED] and Ms. [REDACTED] to discuss the issue of employees' YTime and payroll timesheets not matching. Ms. [REDACTED] states that Ms. O'Hearon rejected Ms. [REDACTED] YTime timesheet because her timesheet was missing entries on September 6, 7, and 8, 2016. Ms. [REDACTED] observed Ms. O'Hearon directing Ms. [REDACTED] to "fix it." Ms. O'Hearon confirms the meeting, rejecting Ms. [REDACTED] timesheet and asking Ms. [REDACTED] to investigate the matter. *See Attachment 3(d).*

Ms. [REDACTED] states that when Ms. [REDACTED] timesheet reached her desk, she realized that Ms. [REDACTED] had "fixed it" by simply recording identical entries in various programs on those days. According to Ms. [REDACTED] Ms. [REDACTED] is very diligent in recording her hours in YTime, particularly because the hours are reported to the State. The fact that that Ms. [REDACTED] did not enter any hours on

three consecutive days appeared to be an anomaly to Ms. [REDACTED]. Thus, according to Ms. [REDACTED], on October 7, 2016, she called [REDACTED] and asked her about the missing entries. [REDACTED] informed her that she had taken leave on those three days. [REDACTED] recalls this incident and provides documentation to substantiate the details. *See* Attachment 11(b).

Ms. [REDACTED] voiced serious concerns about Ms. [REDACTED]. "These are documents that I need to report to the State and I am very concerned about fraud" because Ms. [REDACTED] hours in YTime reflect that she worked a number of hours in certain programs, when in fact, she did not.

**Refuting  
Information:**

Ms. [REDACTED] recalls entering hours on September 6, 7, and 8, 2016 on Ms. [REDACTED] YTime timesheet to reflect that [REDACTED] had worked on those three days. When Ms. [REDACTED] learned that Ms. [REDACTED] had been absent on the above dates, she claims, "I don't recall why I entered [REDACTED] time in YTime without checking with her. I do recall, however, that I only had one day to submit the timesheets to Jen because [REDACTED] was going on vacation." Ms. [REDACTED] voices her expectation that she should have been informed by whoever saw the error that the dates in question were annual leave. Ms. [REDACTED] maintains that the responsibility lies with employees to check their calendar to verify the accuracy of their timesheets and notify her by e-mail of any corrections. "It is incumbent on the employee to make sure their timesheets are filled in correctly before they leave and to let me know when they return," insists Ms. [REDACTED].

**Comments:** *See* also Allegation 3, Comments.

In this investigator's opinion, Ms. [REDACTED] does not provide a satisfactory answer as to why she did not speak with Ms. [REDACTED] prior to entering hours on Ms. [REDACTED] timesheet. Rather than provide some type of explanation, Ms. [REDACTED] redirects her response to implicate Ms. [REDACTED] because she was going on vacation, whoever caught the error because they "should have" informed her, and Ms. [REDACTED] because she did not notify Ms. [REDACTED] by e-mail.

All of the above may be true. Nevertheless, this investigator questions why Ms. [REDACTED] as Supervisor, did not take any action herself to verify the accuracy of Ms. [REDACTED] timesheet. Whatever responsibilities may have been assigned to others, ultimately, the burden falls on Ms. [REDACTED] to ensure the accuracy and completeness of all YTime timesheets submitted by her staff.

In further deliberating this issue, it becomes apparent to this investigator that Ms. [REDACTED] options on how to proceed were not limited. She could have phoned Ms. [REDACTED] as Ms. [REDACTED] did. She could have reviewed her e-mails to ascertain whether she had an e-mail from Ms. [REDACTED] requesting leave, which Ms. [REDACTED] had sent her. Ms. [REDACTED] could have also reviewed [REDACTED]

September 23, 2016 payroll timesheet, which reflects that Ms. [REDACTED] entered 8 hours of sick leave on September 6; 8 hours of annual leave on September 7; and another 8 hours of annual leave on September 8, 2016. As a last resort, Ms. [REDACTED] could have simply entered Ms. [REDACTED] hours as administrative time, rather than enter hours that were not worked into specific programs. In light of the above, this investigator opines that Ms. [REDACTED] did not give proper consideration to the alternatives and simply chose to take the easiest route, which in this case appears to have been to manufacture the entries.

Ms. [REDACTED] response, lack of effort, and attitude do not bode well for her as it tends to diminish her standing; thus, making it difficult for this investigator to consider Ms. [REDACTED] defense plausible. Even if this investigator could attribute a modicum of credibility to Ms. [REDACTED] evidentiary documents in the form of Ms. [REDACTED] e-mails and YTime and payroll timesheets are undeniable and sufficient to support the allegation against Ms. [REDACTED]

Based on the foregoing, this investigator determines it more likely than not that Ms. [REDACTED] recorded false entries on [REDACTED] YTime timesheet.

**Allegation 5:** [REDACTED] and [REDACTED] allege that Jennifer O'Hearon and [REDACTED] create a fear-based environment by yelling, belittling, demeaning, and humiliating staff members.

**Supporting Information:**

Ms. [REDACTED] avers that in July or August 2016, she noticed Ms. O'Hearon's fear-based management style by observing her staff's apprehension around Ms. O'Hearon. She recalls attempting on several occasions to get her staff to confide in her about issues they appeared to be having at work. Ms. [REDACTED] says that no one wanted to speak with her. Ms. [REDACTED] states that she continued pressing and on or about September 7, 2016 while driving to a national WIC conference with Ms. [REDACTED] and Ms. [REDACTED] they finally unburdened themselves and expressed fear, discontent, apathy, frustration, and several other emotions with respect to Ms. O'Hearon's managerial style and her behavior towards staff. See Attachment 2.

Ms. [REDACTED] describes some of her conversations with staff members in which they express fear at the thought of angering Ms. O'Hearon. Ms. [REDACTED] recalls a conversation she had with Ms. [REDACTED] in July 2016, in which Ms. [REDACTED] told her, "I don't trust Jennifer. She doesn't like me." Ms. [REDACTED] recalls that on October 25, 2016, when Ms. O'Hearon was informing Ms. [REDACTED] that she was reducing her hours and wages, Ms. O'Hearon's tone and demeanor were cold and insensitive towards Ms. [REDACTED] given the nature of the conversation and the impact Ms. O'Hearon's decision had on Ms. [REDACTED] livelihood.



Ms. [REDACTED] recounts Ms. [REDACTED] reluctance to record the extra hours she worked during one of the pay periods, and her subsequent insistence that Ms. [REDACTED] not approach Ms. O'Hearon to correct her timesheet so that she would remain under Ms. O'Hearon's "radar." Ms. [REDACTED] reports that even after discussing the illegality of not documenting one's actual hours, Ms. [REDACTED] stated to her, "It's not worth it to rock the boat."

On a personal level, Ms. [REDACTED] states, "I don't know how Jennifer will react to this [investigation]. I don't know if she will treat me like she treats [REDACTED] or if she'll begin unjustly scrutinizing my work, or even if she will tell me that I am going to lose my job." She states that she has difficulty being confronted with the undercutting behavior and psychological games that Ms. O'Hearon plays, and adds, "I'm not sure how much more of this I can take."

Ms. [REDACTED] states, "Jennifer is extremely convincing. She builds a relationship with you in the beginning and gains your trust. I'm concerned that Jennifer will make my work environment intolerable so that it pushes me out the door." Ms. [REDACTED] explains that Ms. O'Hearon will "target someone, like [REDACTED] [REDACTED] [REDACTED] among others, and manipulate situations to push them out." *See Attachment 3.*

Ms. [REDACTED] states that she has not personally experienced "Jennifer's wrath," because she "stays under the radar." Though Ms. [REDACTED] acknowledges Ms. O'Hearon's directive to staff to only record on their timesheets the number of hours they are assigned to work. In that regard, Ms. [REDACTED] asserts, "I do not want to be singled out in the same way [as Ms. [REDACTED] because extra hours are reflected on my timesheet." *See Attachment 5.*

Ms. [REDACTED] recounts having seen Ms. [REDACTED] after an encounter with Ms. O'Hearon, and avers, "[REDACTED] is demoralized after she has an incident with Jennifer. I have seen [REDACTED] work on projects and Jennifer not approve them. Jennifer has also reprimanded [REDACTED] when she stepped up and kept our programs going because she was performing duties that are not within her job description." Ms. [REDACTED] states that Ms. [REDACTED] is "one of the best nurses I've worked with. I don't know why Jennifer singles her out. It almost seems like Jennifer has a personal vendetta against [REDACTED]"

Ms. [REDACTED] also recalls when Ms. O'Hearon was appointed Director of Human Services. She states that staff were excited and happy because Ms. O'Hearon was well-liked. Ms. [REDACTED] states, however, that the environment changed rather quickly and staff is currently very dissatisfied and disgruntled. She avers, "No one wants to make Jennifer unhappy because we are all afraid of her reaction. I have heard from others the way they are treated by Jennifer. And I have seen the way she treats [REDACTED] I would not like to be treated that way. It doesn't feel good to be disrespected or demeaned."

Ms. [REDACTED] states, "I believe that since Jennifer became the director, she targets and singles me out. She scrutinizes my work, has taken my computer, accused me gossiping about her every time I speak with [REDACTED] reduced my hourly wage, and many other things." Ms. [REDACTED] avers that Ms. O'Hearon will schedule meetings in Meeker on the days Ms. [REDACTED] is working in Rangely. She adds that Ms. O'Hearon has not provided her with a key to the new office in Rangely even though Ms. [REDACTED] works out of Rangely two days a week. *See* Attachment 4(g).

Ms. [REDACTED] elaborates on the situation with her missing computer. She states that on June 28, 2016, she left her laptop in her office in Meeker. The following morning, Ms. [REDACTED] informed her that Ms. O'Hearon had taken her laptop and wanted to see Ms. [REDACTED] in the Rangely office. Ms. [REDACTED] drove to Rangely and met with Ms. O'Hearon. Ms. [REDACTED] states that at the end of the meeting, she asked for her laptop, and Ms. O'Hearon responded with a simple, "No." Ms. O'Hearon later informed Ms. [REDACTED] that she would be getting a new laptop the following week. When Ms. [REDACTED] asked if IT could transfer the information from her old laptop to the new one, Ms. O'Hearon said, "Oh, you don't need anything from your old computer."

Ms. [REDACTED] statement supports Ms. [REDACTED] account and provides additional information unknown to Ms. [REDACTED]. She recalls that in June or July 2016, Ms. O'Hearon made her take Ms. [REDACTED] computer out of her office while she rummaged through Ms. [REDACTED] office with Ms. [REDACTED] in search of Ms. [REDACTED] password. According to Ms. [REDACTED] Ms. O'Hearon told her that she "is convinced that [REDACTED] has something on her laptop that relates negatively to Jennifer. [REDACTED] was without a laptop until probably August 2016."

Ms. O'Hearon sent an e-mail to Ms. [REDACTED] documenting a verbal warning for an alleged HIPPA violation. In the e-mail, Ms. O'Hearon states, "On 28Jun16, I entered your Meeker office to obtain your laptop." On July 6, 2016, Ms. [REDACTED] sent a subsequent e-mail to Ms. [REDACTED] copying Ms. O'Hearon, requesting for Ms. [REDACTED] password. Within three minutes, Ms. [REDACTED] responded with her username and password. *See* Attachment 4(f).

Though Ms. [REDACTED] states that she personally does not have any issues with Ms. O'Hearon, she is aware that some of her co-workers take issue with the way Ms. O'Hearon treats them. Nevertheless, Ms. [REDACTED] recalls that when she worked under the previous director, she did not feel pressured to have to stay in her office. Ms. [REDACTED] indicates that at the present moment, she remains in her office and does not have much contact with her co-workers, primarily because she is fearful that Mses. O'Hearon and [REDACTED] will reprimand her for speaking with her co-workers.

According to Ms. [REDACTED] "The morale in our department is low." She states that she does not feel comfortable or welcome bringing up issues of concern with Ms. O'Hearon, despite Ms. O'Hearon's "open door" policy.

Ms. [REDACTED] states that there is a sense among staff that they cannot speak with each other. She recalls being reprimanded by Ms. O'Hearon because she took a break to help a co-worker get to work who was stuck in the snow. Ms. [REDACTED] recounts that Ms. O'Hearon told her, "Stay out of it and mind your own business." *See Attachment 7.*

Ms. [REDACTED] states that when someone calls for Ms. O'Hearon, she needs to look at Ms. O'Hearon's calendar to determine how to respond to the caller. On one occasion, Ms. [REDACTED] states that Ms. O'Hearon yelled, "You have no right to look at my calendar!" *Id.*

Ms. [REDACTED] further avers, "Jennifer is demeaning and she creates an environment of intimidation. My co-workers and I are concerned about losing our jobs." Ms. [REDACTED] affirms that some of her co-workers have been there a long time, but they are now thinking, "Can I retire? Can I afford to move somewhere else?" She underscores the serious concern staff have about job security.

Ms. [REDACTED] acknowledges that staff members feel isolated because they are afraid to discuss these issues with anyone, even amongst themselves, but particularly with Human Resources or other department heads. She asserts, "A person should be able to talk to anybody and not feel intimidated or fearful. It does not feel good to be demeaned or reprimanded for doing what we believe is ethically right, or simply displaying courteousness and civility to our co-workers."

Ms. [REDACTED] makes a similar assertion. She indicates that Ms. O'Hearon emphasizes to staff how much Ms. Smith and the Commissioners "love her." Ms. [REDACTED] perceives this as an attempt by Ms. O'Hearon to intimidate the staff into not speaking with Ms. Smith and other department heads. Ms. [REDACTED] avers that she has asked Ms. O'Hearon about speaking with the Commissioners, and relates that Ms. O'Hearon has told her that "she prefers that I not speak with them directly." *See Attachment 10.*

Ms. [REDACTED] hopes that "if all 10 of us had the guts to go see Laura Smith and truthfully speak what we're feeling, I would hope something would be done about Jennifer's position and behavior." *See Attachment 7.*

Ms. [REDACTED] explains that in December 2015, Human Services was in a state of flux due to staff terminations. Ms. O'Hearon assigned her a temporary assignment working in Child Care, but did not advise her the length of time she

would be performing these additional duties. On or about October 26, 2016, Ms. [REDACTED] avers that she received an e-mail from Ms. [REDACTED] instructing her to stop recording Child Care on her timesheet because Ms. [REDACTED] is now responsible. *See Attachment 11(d).* Ms. [REDACTED] states, "This was the first time I heard that I was not going to continue working in Child Care."

Ms. [REDACTED] states that Ms. [REDACTED] stopped by her desk as she was reading this e-mail, and began reading it along with Ms. [REDACTED]. At the same time, Ms. [REDACTED] was walking past Ms. [REDACTED] office and observed Ms. [REDACTED] reading the e-mail. Ms. [REDACTED] states, "She [Ms. [REDACTED]] went completely ballistic" because staff was under strict orders that they "should not be chit-chatting about anything." *See Attachment 1(c).*

Ms. [REDACTED] states that Ms. [REDACTED] took her to Ms. O'Hearon's office to reprimand her. According to Ms. [REDACTED] Ms. O'Hearon "in a thunderous voice," verbally berated and demeaned her for approximately five minutes. Ms. [REDACTED] asserts, "I was so shocked that I could only stare at her. I have suffered through abusive relationships and Jennifer's reprimand for an innocent action, really shook me up."

Ms. [REDACTED] also avers that last year Ms. O'Hearon mandated her to attend the department's Christmas party. Ms. [REDACTED] asserts that she prefers not to attend because she is uncomfortable around persons who are drinking. She makes sure to clarify, "It's not that I don't like to socialize with my co-workers. I do not enjoy seeing people when they drink because my ex-husband was an alcoholic and abusive." Ms. [REDACTED] does not claim that anyone at the party drinks too much or is irresponsible. Nor does she believe that there is anything wrong with drinking. Rather, Ms. [REDACTED] asserts, "It is simply a particular sensitivity that I have." Ms. [REDACTED] states that Ms. [REDACTED] is hosting the Christmas Party this year and is worried that she will be required to attend, even though it will be uncomfortable for her.

Ms. [REDACTED] opines that Ms. O'Hearon sets her up to fail or that she sets her up so that she can then yell at her. She further believes that if Ms. O'Hearon learns that Ms. [REDACTED] enjoys performing a task, like cooking, Ms. O'Hearon will reassign that task to someone else. Ms. [REDACTED] also expresses frustration because at times staff must wait idly by until Ms. O'Hearon arrives for their meeting. Meanwhile, she states, "If we are not there when or if she arrives, we get reprimanded for not being at the meeting. This is an incredible waste of our resources." Ms. [REDACTED] asserts that Ms. O'Hearon makes known what she wants in no uncertain terms, and "you don't dare challenge her or question her decisions on any level" because that is akin to placing a bullseye on your back.

According to Ms. [REDACTED], Ms. O'Hearon manages the departments through intimidation. She says, "I think the staff is terrified of what Jennifer will do if

she finds out what everyone has said about her... We were all afraid of what would happen if we went to the Commissioners, nothing changed with Jennifer, and Jennifer found out because the Commissioners appear to always side with Jennifer.”

Ms. [REDACTED] avers that Ms. O’Hearon is often very cold and demeaning with Ms. [REDACTED] and appears to enjoy humiliating her. Ms. [REDACTED] recalls that Ms. O’Hearon made Ms. [REDACTED] cry during one of their meetings. According to Ms. [REDACTED] the following day, Ms. O’Hearon laughed and said, “I just wanted to see your reaction.” Ms. [REDACTED] states, “Honestly, I don’t know why Jennifer behaves the way she does. Sometimes I feel that Jennifer is unfair because she does not even try to listen to our suggestions. She, essentially, says, ‘I’m the boss and this is the way it’s going to be.’” *See Attachment 8.*

### **Refuting**

**Information:** Ms. O’Hearon denies all allegations and avers, “I would disagree with the fact that I am demeaning, and belittling my employees.”

Ms. O’Hearon explains that as she became busier managing two departments, she did not have time to socialize with her staff, and maintained relationships on a strictly professional level. She states, “I made a decision to manage my time by focusing on the work I needed to get through so that I could perform the job the Commissioners tasked me with doing.”

Ms. O’Hearon responds to other allegations. Regarding Ms. [REDACTED] laptop, Ms. O’Hearon’s version is contradictory to Ms. [REDACTED] version. Ms. O’Hearon states that Ms. [REDACTED] went to see her because she needed information related to Public Health that she believed was on Ms. [REDACTED] laptop. Ms. O’Hearon states that she offered to help her look for Ms. [REDACTED] password. “We did not find her password and I do not remember seeing [REDACTED] laptop in her office either,” states Ms. O’Hearon.

Ms. [REDACTED] account varies somewhat, as well. She states, “In June or July 2016, I went to [REDACTED] office to get Chapsticks. I saw [REDACTED] and Jennifer in [REDACTED] office looking for the password to [REDACTED] laptop.” She adds, “I remember someone saying that [REDACTED] was not giving them information that they needed. That is the extent of my recollection. I don’t know whether or not they found the information or the laptop.”

In response to Ms. [REDACTED] not having a key to the Rangely office, Ms. O’Hearon explains that a master key for the office in Rangely is kept in the County car that is used by employees driving to Rangely. She states that the reason Ms. [REDACTED] does not have a key is because “Eric Jaquez, Project Manager, does not want too many people having keys. It’s not intentional on any level that [REDACTED] does not have keys to the Rangely office.”

Ms. O'Hearon states, "My recollection of the incident with [REDACTED] is that I was asking her why she did not come to me if she was confused about her role." Ms. O'Hearon admits, "I know that I was curt because that is what I do. I don't beat around the bush. I don't fluff it up. This could be perceived to be mean."

When asked about statements witnesses made with respect to how they observe her treating Ms. [REDACTED] Ms. O'Hearon explains, "I don't think I treat [REDACTED] differently than I treat others. I offered to mentor her, for her to become the Supervisor."

Lastly, Ms. O'Hearon declares, "I have never done anything of ill-intent intentionally, nor would I, to hurt any of my staff. I feel very blessed to have the staff that I have because they are very talented."

Ms. [REDACTED] as well, denies all allegations. Ms. [REDACTED] acknowledges that the morale in her department is low and attributes the low morale to Ms. [REDACTED] presence. She opines that Ms. [REDACTED] has brought a divisive element to the group and believes that staff "were sucked into it." She states, "It makes me sad to hear that people in the office perceive Jennifer and me in a negative way and that my staff does not feel comfortable coming to me. We want people to try to resolve issues on their own and everyone handles things differently." See Attachment 1(c).

**Comments:** With respect to Ms. [REDACTED] this investigator was not surprised that she continued to deflect her responses, and this time assigned blame to Ms. [REDACTED] for creating a divisive environment. This investigator does not consider Ms. [REDACTED] to be a reliable witness, and for the most part, rejects Ms. [REDACTED] statement as incredulous.

Ms. O'Hearon, on the other hand, gives seamless responses when asked about the numerous allegations against her. She acknowledges that she has not been as accessible as she has been in the past, and provided a logical explanation for her decision to distance herself from staff. She persuasively conveys her understanding of the alleged incidents with Ms. [REDACTED] and Ms. [REDACTED] laptop and keys to the Rangely office.

In response to the allegations of intimidation, Ms. O'Hearon apologetically maintains that none of her actions carried ill-intent and subsequently praised her staff. Moreover, as previously stated, Ms. O'Hearon presented a calm and professional demeanor. These are all convincing characteristics which would generally tend to favor Ms. O'Hearon's potential reliability and sincerity.

Nevertheless, this investigator cannot ignore the wealth of information presented, both verbal and documentary, which contradicts much of Ms. O'Hearon's assertions. For example, though Ms. O'Hearon denies seeing

Ms. [REDACTED] laptop; however, the e-mail she sent Ms. [REDACTED] indicates otherwise. Moreover, the only corroborating witness Ms. O'Hearon has is Ms. [REDACTED], who is also implicated in many of these allegations. Conversely, this investigator was able to independently verify sufficient incidents to deem them credible.

Perhaps the most compelling information came from witnesses who observed Ms. O'Hearon's treatment of Ms. [REDACTED] and recounted incidents with specificity. For example, it appears from the information provided that Ms. O'Hearon was impervious to the ramifications of simultaneously reducing Ms. [REDACTED] hours and wages. Not only will Ms. [REDACTED] lose County benefits, but she will also suffer a 6% decrease in pay. This fact is uncontroverted as Ms. O'Hearon admits to making this decision. After hearing similar stories from witnesses, this investigator had difficulty reconciling the Ms. O'Hearon that was being interviewed with the Ms. O'Hearon described by witnesses.

Nevertheless, this investigator accepts that due to existing dynamics and tensions, certain staff members may possibly have reason to malign Ms. O'Hearon and misconstrue their interactions with her. Even if true, staff members with no reason to disparage Ms. O'Hearon far outweigh those employees who may dislike Ms. O'Hearon. Moreover, this investigator heard from a number of witnesses that they were excited when Ms. O'Hearon was appointed Human Services Director. Yet, these same individuals now fear Ms. O'Hearon's ire and appear to dread going to work. Therefore, this investigator does not find it likely that the majority of staff members would take pleasure in Ms. O'Hearon's downfall. In fact, this investigator observed concern from many witnesses over Ms. O'Hearon's changed behavior.

Based on the foregoing, this investigator finds that it is more likely than not that Jennifer O'Hearon and [REDACTED] create a fear-based environment by yelling, belittling, demeaning, and humiliating staff members.

**Allegation 6:** [REDACTED] and [REDACTED] allege that Ms. O'Hearon unjustifiably eliminates positions, reduces hours, decreases wages, and overly scrutinizes work performance.

**Supporting Information:** [REDACTED] describes incidents illustrating her point. She reports that Ms. O'Hearon sent an email to the former Finance Director, Chris Singleton, on October 20, 2016 to remove [REDACTED] from the Public Health Budget—a task that falls within [REDACTED] purview—“d/t [due to] her feeling overwhelmed with all of her new duties.”

According to Ms. [REDACTED] Ms. O'Hearon did not speak with her before sending the e-mail. In fact, she states,

I would not have known about this had Chris not forwarded the e-mail to me. This e-mail would have been appropriate when I initially had concerns about the budget in August 2016. Now, I have a much better grasp and vision at this point, and could handle learning more about the budget. So, in my mind, this e-mail is incorrect, and also not appropriate.

*See Attachment 2(c).*

Ms. [REDACTED] avers that Ms. O'Hearon has also questioned Ms. [REDACTED] about Public Health's methods for processing expenditures, despite having previously discussed the same issues with Ms. [REDACTED]. *See Attachment 2(b).*

According to Ms. [REDACTED] she is in line to be the Director of Public Health to replace Ms. O'Hearon. As she understands it, the Commission has at present privately approved her appointment. Ms. [REDACTED] opines that Ms. O'Hearon is threatened by this development and is setting her up to fail by attempting to portray Ms. [REDACTED] as inept.

Ms. [REDACTED] states, "Now, I am fearful of continuing to work with Jennifer because I feel if I go against her she will retaliate against me. I'm not afraid of losing my job at this point. I feel like Jennifer wants to destroy my reputation because she wants to remain in the director's position." *See Attachment 2.*

Ms. [REDACTED] forwarded an e-mail she received from Ms. O'Hearon while she was participating in said investigation. In her e-mail, Ms. O'Hearon charges that she has thrice attempted to attend the staff meeting Ms. [REDACTED] had previously scheduled for that day, but "found that you [Ms. [REDACTED]] were not available." *See Attachment 2.d.* This investigator understands that Ms. O'Hearon was fully aware that Ms. [REDACTED] was participating in said interview at the time.

Ms. [REDACTED] opines that Ms. O'Hearon has targeted Ms. [REDACTED] and subsequently retaliated against her. *See also Allegation 5.* Ms. [REDACTED] explains that at the end of August 2016, Ms. O'Hearon indicated that patient numbers in Public Health had decreased. As a result, Ms. O'Hearon informed her that she wanted to reduce Mses. [REDACTED] and [REDACTED] hours. Ms. [REDACTED] states, "I was on board thinking that it was only based on patient numbers." Ms. [REDACTED] recalls, "Jennifer did not consider any other way to reduce costs. In fact, Jennifer did not seem interested in exploring our options."

Ms. [REDACTED] avers, "Jennifer wanted me to calculate the number of times [REDACTED] and [REDACTED] were out. She said that she was going to justify cutting their hours based on how often they were present for work." Ms. [REDACTED] opines that Ms. O'Hearon had already made her decision and was now merely seeking justification to present to the Commissioners.



According to Ms. [REDACTED], Ms. O'Hearon shared her perception that because Ms. [REDACTED] and Ms. [REDACTED] work closely together in the WIC program, they are gossiping about her. Ms. [REDACTED] thus, proffers that Ms. O'Hearon's legitimate business reason for reassigning Ms. [REDACTED] responsibilities is merely pretext for decreasing Ms. [REDACTED] wages and impeding them from continuing to work together.

Based on interactions she has observed between Ms. O'Hearon and various staff members, Ms. [REDACTED] postulates that Ms. O'Hearon has used her position to "retaliate" against staff. She, therefore, is concerned that Ms. O'Hearon may continue to use her position in similar fashion against staff who is being interviewed.

Ms. [REDACTED] statement supports this claim. She states, "[REDACTED] and I work closely together and discuss out mutual clients frequently...Jennifer believes that we are gossiping about her. Jennifer does not want us working so closely together so she has instructed [REDACTED] to take away [REDACTED] responsibilities as WIC Director." *See Attachment 5.*

Ms. [REDACTED] as well, expresses apprehension during her interview. She asserts, her fear stems from not knowing what Ms. O'Hearon's reaction will be when she finds out that she was interviewed. She adds, "I love what I do, so if anything, I do not want to jeopardize my job because I know I make a difference."

Ms. [REDACTED] states that on October 25, 2016, Ms. O'Hearon and [REDACTED] informed her that they were reducing her hours and wages. Ms. [REDACTED] states that Ms. O'Hearon explained that the County Commissioners had asked all Department heads to cut the budget, primarily because the assessed market value had decreased. According to Ms. [REDACTED] "Jennifer said that she needed to cut 4 hours from my schedule and reduce my hourly wage by approximately \$2.00 per hour."

Ms. [REDACTED] avers that she was very upset and asked Ms. O'Hearon how she determined whose salary and hours she was reducing. According to Ms. [REDACTED] "Jennifer was cordial in the beginning of our meeting, however, once I started to become upset, Jennifer became defensive. Jennifer was not sympathetic to the fact that she was cutting my hours and my pay. I think that Jennifer cut my hours and wages because she does not like me. I also think that anyone who Jennifer does not like, is being affected."

Ms. [REDACTED] avers that after being verbally berated on October 26, 2016, Ms. O'Hearon called her into a budget meeting on November 1, 2016. She informed Ms. [REDACTED] that she was reducing her hours to 32 hours per week. With

the new schedule, Ms. [REDACTED] requested if, on occasion, she could take Fridays off so that she could take her husband to his medical appointments. Ms. [REDACTED] shares that Ms. O'Hearon and Ms. [REDACTED] are aware that her husband has cancer and Fridays is when he has chemotherapy appointments. *See* Attachment 11.

Ms. [REDACTED] asked Ms. O'Hearon to allow her to make up Fridays' hours on Mondays so that she would not lose her benefits by falling short of the 32 hours per week. Ms. [REDACTED] states, "Jennifer told me that she wants a set schedule so that she can always know where everyone is and when people are working. [REDACTED] said that she was more flexible, but Jennifer said that she did not want to allow me to make up the hours because it would make my schedule inconsistent." Ms. [REDACTED] does not believe this action is retaliatory.

Ms. [REDACTED] opines that Ms. O'Hearon is under the impression that she requested mediation so that Ms. O'Hearon and her staff could find ways to better communicate. Ms. [REDACTED] avers, "I think she holds this against me because she brings it up to this day. I also tend to be a caretaker and would make suggestions or offer to help Jennifer when she first started in her position as Director. Jennifer very quickly put her finger in my face and let me know she was the boss." According to Ms. [REDACTED] she is now suffering the consequences and explains that her position is being eliminated for this reason. *See* Attachment 10.

Ms. [REDACTED] states that at the end of October 2016, Ms. O'Hearon met with [REDACTED] and her to explain that she needed to reduce the costs. Ms. O'Hearon also indicated that there were going to be major cuts in all the departments she oversees. Ms. [REDACTED] states that Ms. O'Hearon informed them that Ms. [REDACTED] position is being eliminated and that her position will be changing. Ms. [REDACTED] speculates that Ms. O'Hearon must have a problem with Ms. [REDACTED] because of the way she treats her. She adds, "With all these changes, I am concerned about losing my job. This makes me wonder if it is a way to try to get rid of me." *See* Attachment 8.

### **Refuting**

#### **Information:**

Ms. O'Hearon does not deny that she is making sweeping budget cuts across her departments. Ms. O'Hearon, however, denies having any ulterior motives for the reductions in force.

Ms. O'Hearon confirms that she is shifting responsibilities away from Ms. [REDACTED] to Ms. [REDACTED]. She states that she moved RFRs, the WIC Director, and many other duties from Ms. [REDACTED] position to Ms. [REDACTED] position because those duties have been traditionally performed by the Director, who must also be registered nurse. In the absence of a director, Ms. [REDACTED] was assigned those responsibilities because she is a registered nurse. Ms. O'Hearon

explains though that now that Ms. [REDACTED] is the supervisor and she is also a nurse, those responsibilities should return to that position. *See* Attachment 13.

Ms. O'Hearon justifies eliminating Ms. [REDACTED] position and restructuring WRR to avoid having it eliminated completely. She indicates that there was a risk that WRR would not have sufficient funding because of decreased Use tax. Ms. O'Hearon states that she was approached by Dave Norman with an alternative to consider having other entities cook the senior meals. One solution was that she contract with the jail to provide the meals for the senior programs as other counties have done.

Ms. O'Hearon states that she spoke with Garfield County who has a similar arrangement and conducted a cost analysis. Ms. O'Hearon avers, "I could not justify keeping [REDACTED] position open. It made more sense to eliminate that position, contract with the jail to cook the meals, and reassign some of her responsibilities to [REDACTED]."

**Comments:**

This investigator weighs Ms. O'Hearon's responses against the witness statements. Ms. O'Hearon is generally able to provide a legitimate business reason for essentially all her budgetary decisions. However, this investigator finds the timing of these decisions suspect, as well as the fact that the budgetary cuts impact those employees who claim that Ms. O'Hearon dislike them.

Case in point, it is well-established that Ms. O'Hearon and Ms. [REDACTED] do not get along. Yet, Ms. O'Hearon provides a perfectly legitimate business purpose for reducing Mses. [REDACTED] and [REDACTED] hours and decreasing Ms. [REDACTED] wages. However, this investigator learned that Ms. O'Hearon's original intent was to reduce only Ms. [REDACTED] hours, and not Ms. [REDACTED] hours. Ms. O'Hearon planned on decreasing Ms. [REDACTED] hours from 32 hours per week to 24 hours per week, in addition to decreasing her hourly wages by \$2.00 per hour.

After discussing her plan with Ms. Smith, Ms. O'Hearon decided to reduce both Mses. [REDACTED] and [REDACTED] hours from 32 hours to 28 hours per week. This investigator opines that it was only after conferring with Ms. Smith that Ms. O'Hearon most likely understood the potential liability implications of solely targeting Ms. [REDACTED] in this specific situation and consequently realized she had to include Ms. [REDACTED]

Though Ms. [REDACTED] additional duties were temporary, this investigator finds it curious that it was only after Ms. [REDACTED] confronted her that that Ms. O'Hearon informed her she would be reducing her hours and wages as well. As discussed above, a similar scenario occurs with Ms. [REDACTED] and her program.

Taken individually, none of these situations raise red flags and appear appropriate considering the need to reduce expenditures. When grouped

together, though, this investigator sees a pattern emerge which lends itself to question the legitimacy of Ms. O'Hearon's business decisions. At this point, Ms. O'Hearon's reasons for implementing these particular budgetary reductions begin to resemble pretext. As such, this type of behavior calls into question the veracity of Ms. O'Hearon's statements and creates uncertainty about Ms. O'Hearon's true motives and integrity.

Though this investigator cannot state with absolute certainty the pretextual nature of Ms. O'Hearon's decisions, this investigator need only rely on a preponderance of proof. In other words, more than 50% of the information need weigh in favor of one side or the other. Considering the totality of the facts, the information presented is favorably biased in support of the allegations.

Based on the foregoing, this investigator finds it more likely than not that Ms. O'Hearon unjustifiably eliminates positions, reduces hours, decreases wages, and overly scrutinizes work performance.

**Allegation 7:** ██████████ alleges that Jennifer O'Hearon and ██████████ use racial slurs and epithets when referring to African Americans, Mexicans, and Asians.

**Supporting Information:**

Near the end of her interview, Ms. ██████████ asked, "Do you want to know about some of the racial slurs that Jennifer and ██████████ make?" Ms. ██████████ then provided specific examples and language used by Mses. O'Hearon and ██████████ during their potluck lunches, which have now been discontinued. Ms. ██████████ recalls that Mses. O'Hearon and ██████████ liked to discuss politics, and on one particular occasion, they were discussing Black Lives Matter. According to Ms. ██████████ Ms. ██████████ commented, "They're just stupid 'niggers.'" Ms. ██████████ states, "I could not believe that ██████████ had used that word so freely. I was definitely uncomfortable." She adds that she noticed that others present also appeared uncomfortable. Ms. ██████████ states, however, that Ms. O'Hearon "just laughed."

"Jennifer and ██████████ continued to make other comments," adds Ms. ██████████. She states that Ms. O'Hearon referred to President Obama as a "stupid Black guy." According to Ms. ██████████ both Mses. O'Hearon and ██████████ said that they hoped the wall between Mexico and the United States is built to "keep those Mexicans out." Ms. ██████████ avers, "They made sure to exclude my mom, ██████████ and me, which I find even more offensive."

Ms. ██████████ asserts that those comments are not the only comments that Ms. ██████████ has made. Ms. ██████████ states that Ms. ██████████ openly discusses her sex life with her husband and is fond of using the term, "cunt."

Ms. [REDACTED] states that Ms. O'Hearon has also told a story about a time that she took her kids to Lagoon, an amusement park, and apparently had a negative encounter with a group of Asian teens. Ms. [REDACTED] recalls that in telling her story, Ms. O'Hearon referred to the Asian teens as "chinks." On a different occasion, Ms. O'Hearon admitted that she had animosity towards "chinks" because her grandfather had fought in WWII and she was raised with this hostility towards Asians.

Ms. [REDACTED] recalls having a conversation with Ms. [REDACTED] in which Ms. [REDACTED] told her she believed she was being treated differently because Ms. [REDACTED] has a biracial daughter. When asked, Ms. [REDACTED] acknowledged being treated differently. However, she attributes the differential treatment to the present investigation rather than to her daughter. Ms. [REDACTED] believes the staff does not speak about the racial slurs for fear of being singled out and targeted by Ms. O'Hearon. Therefore, she does not expect other staff to substantiate her statement.

Ms. [REDACTED] states that she has heard Ms. O'Hearon use the term, "nigger," in the context of telling a story. She explains that her daughter is half-Black, and that everyone in the office, including Ms. O'Hearon and [REDACTED] are aware of this fact. Ms. [REDACTED] states that when Ms. O'Hearon said "nigger" in front of her, she was very offended because Ms. O'Hearon knew Ms. [REDACTED] daughter was biracial. Ms. [REDACTED] claims that Ms. O'Hearon used the slur two or possibly three times. Ms. [REDACTED] resists thinking that Ms. O'Hearon is a racist. Nevertheless, Ms. [REDACTED] asserts, "If I had heard a stranger telling the story and saying 'nigger,' I would certainly tell my daughter to stay away from that person."

Ms. [REDACTED] states that when she first met Ms. [REDACTED] it was readily apparent to her that Ms. [REDACTED] did not like her. Ms. [REDACTED] does not know if Ms. [REDACTED] dislikes her on a personal level or if it is because she has a biracial daughter. Similarly, Ms. [REDACTED] asserts that she "got a vibe from [REDACTED] that she is a racist during one of my very first meetings with [REDACTED] I just don't have anything concrete to base it on." She admits that she has not heard Ms. [REDACTED] use the term, "nigger." Nor has Ms. [REDACTED] heard the phrase, "There must have been a 'nigger' in the wood pile."<sup>9</sup> However, Ms. [REDACTED] affirms, "Knowing what it means, I would think that [REDACTED] would have been the one to say that about me."

According to Ms. [REDACTED] she has not heard Ms. O'Hearon or anyone else use the term, "chinks." Though, she recalls Ms. [REDACTED] telling her that Ms. O'Hearon used the term while telling a story. Ms. [REDACTED] maintains, "I don't doubt that

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<sup>9</sup> It was explained to this investigator that this phrase refers to a biracial child who has a White mother and Black father.

Jennifer would have said this because of how blatantly she said “nigger” in front of me. I also don’t think that [REDACTED] would make this up because she has strong feelings about the comments.”

Ms. [REDACTED] describes an incident with Ms. [REDACTED] which she believes constitutes discrimination. Ms. [REDACTED] explains that often times staff travel between the Rangely and Meeker offices. In this case, she recounts a time when Ms. [REDACTED] instructed [REDACTED] a Caseworker, to clock into YTime when she left the Rangely office on her way to the Meeker office and clock out when she returned to the Rangely office from the Meeker office. According to Ms. [REDACTED] Ms. [REDACTED] made similar trips. Ms. [REDACTED] however instructed Ms. [REDACTED] to clock into YTime when she arrived in Meeker from Rangely and clock out before she left Meeker on her way to Rangely. Ms. [REDACTED] exclaims, “That situation to me, screams discrimination!” She adds that after she told Ms. O’Hearon about the situation, Ms. [REDACTED] told Ms. [REDACTED] to clock in and out the same way as Ms. [REDACTED]

Ms. [REDACTED] states that she has heard Ms. [REDACTED] use the term, “nigger,” but cannot recall hearing Ms. O’Hearon use the term. Ms. [REDACTED] remarks, though, that there have been occasions in which Ms. O’Hearon has heard Ms. [REDACTED] language. “Yet,” states Ms. [REDACTED] “I did not observe Jennifer telling [REDACTED] that her comments are inappropriate.” Ms. [REDACTED] adds that Ms. [REDACTED] in particular, makes derogatory and crass comments. She provides another example, “When referring to a mixed-race child who has a White mother, [REDACTED] has said, “There must have been a nigger in the wood pile.”

Ms. [REDACTED] also asserts that she has heard Ms. O’Hearon and [REDACTED] make comments such as “those goddamn Mexicans,” when describing some of the Hispanic clients. She also recalls hearing Ms. [REDACTED] make comments about a former employee, [REDACTED] Ms. [REDACTED] was the Staff Assistant for Human Services. Ms. [REDACTED] states that Ms. [REDACTED] is Hispanic and that it was sometimes difficult to understand her because of her accent. Nevertheless, Ms. [REDACTED] explains that Ms. [REDACTED] Spanish skills were helpful because the Hispanic clients felt comfortable going to the office. Ms. [REDACTED] recalls Ms. [REDACTED] stating, “I’m glad [REDACTED] isn’t at the front desk anymore because she brings in all those Mexicans.”

Ms. [REDACTED] acknowledges that she “probably heard [REDACTED] and Jennifer using the term ‘nigger’ during one of our potlucks.” She does not, however, recall hearing anyone in the office use the term, “chinks,” or being involved in a conversation in which Ms. [REDACTED] made derogatory comments about Mexicans. Ms. [REDACTED] believes that staff may have wanted to ask Ms. [REDACTED] to stop using derogatory language, but were too afraid to say anything. Ms. [REDACTED] asserts, “I know that Jennifer would not say anything to [REDACTED] if she heard her saying ‘nigger.’”

Ms. [REDACTED] explains that there is a phrase used by the older generation, when referring to a mixed-race child. In a low voice, she repeats the phrase, "There musta been a nigger in the wood pile." Ms. [REDACTED] substantiates Ms. [REDACTED] assertion and affirms, "I'm sure I've heard [REDACTED] saying that phrase at some point in time, but can't recall when."

Ms. [REDACTED] also recalls Ms. [REDACTED] at some point, making a comment about Ms. [REDACTED]. Ms. [REDACTED] states that she remembers Ms. [REDACTED] being happy that Ms. [REDACTED] was no longer worked there "because now [REDACTED] won't be 'rounding up the Mexicans.'"

As Ms. [REDACTED] reflects on these allegations, she says, "I don't think that [REDACTED] despises certain groups of people, but it's possible that she believes that certain people from other ethnicities or races are not as good as her. However, I think that she probably thinks that she is better than some White folks, too."

**Refuting  
Information:**

According to Ms. O'Hearon, she has not heard anyone use the term, "nigger," and denies having used that term herself. Ms. O'Hearon also denies having heard any of her staff make the comment, "There must have been a 'nigger' in the wood pile," when referring to a biracial child. She adds, "I don't even know what the phrase means." Ms. O'Hearon also denies using the term, "chinks." Lastly, Ms. O'Hearon denies having heard anyone in the office use derogatory language toward Mexicans, such as "those fucking Mexicans."

Ms. [REDACTED] emphatically denies the allegations that she uses the term, "nigger." She proclaims that the allegations "are completely inaccurate." Ms. [REDACTED] adds, "I am the least racial person I know. I will take a polygraph that I have never used that word, neither have my husband or my children ever used that word. I don't know why people would say that about me. I am the least racially divisive person ever. Whoever said that is an outright liar!"

Ms. [REDACTED] also denies having heard any other staff use the term, "nigger." Ms. [REDACTED] reiterates, "I take immense offense to that." She refutes anyone in the office using the term, "chinks." When asked about derogatory comments concerning Mexicans, Ms. [REDACTED] repudiates the assertion that she hoped "Trump's wall gets built to 'keep those fucking Mexicans out.'" She states that she has Mexicans working for her and that she attends all the Mexican functions in town. Lastly, Ms. [REDACTED] affirms, "Jennifer would never allow anyone to talk that way and no one in our office talks that way."

Ms. [REDACTED] states that she has not heard Ms. O'Hearon use any derogatory language or racial slurs. She states that the only comments she recalls

Ms. O'Hearon and Ms. [REDACTED] making during the potluck meetings were related to their sex lives. According to Ms. [REDACTED] they would openly discuss their sex lives and circle the room asking the staff questions. Ms. [REDACTED] indicates that Ms. O'Hearon would ask Ms. [REDACTED] "did you get laid this weekend?" Though Ms. [REDACTED] indicates that she has not personally heard racial slurs, she asserts, "Knowing [REDACTED] I can imagine that she has made these and other derogatory comments about races and nationalities."

**Comments:** Ms. [REDACTED] raised these allegations at the end of her interview, and questioned whether or not her statement would be substantiated by other staff due to the controversial and sensitive character of these allegations. This investigator was able to obtain statements from witnesses which, in some form or another, support Ms. [REDACTED] assertions.

This investigator also noted the witnesses' reactions and demeanor during this inquiry and found the supporting witnesses to be cooperative, albeit somewhat hesitantly candid. This investigator does not interpret their hesitancy as noncompliance or as an attempt to deceive, but rather attributes their tentativeness to the difficult task of divulging potentially damaging revelations about co-workers, who some have known for decades.

This dynamic would not typically be relevant in a largely populated town or city. However, in this case, the relationships are highly relevant and fundamental in assessing the credibility of the witnesses because Meeker is a small community where everyone appears to be connected to one another, a few degrees removed, and where one's reputation affects their standing in the community. Thus, this investigator believes it would be unlikely that this number of witnesses would intentionally set out to harm Ms. O'Hearon and [REDACTED] by stating falsehoods.

This investigator's assessment of the refuting witnesses was also based in part on their demeanor during the interviews, as well as their responses to the questions. This investigator observed in Ms. O'Hearon and Ms. [REDACTED] transformations in tone and manner of response once confronted with the allegations pertaining to race. It was apparent to this investigator that both were noticeably caught off-guard with the shift in inquiry. Ms. O'Hearon's usual polished, attentive, and self-possessed demeanor became less confident and diminished. Ms. O'Hearon's responses, as well, changed from well-prepared, explicatory answers to brief and apprehensive answers.

In this investigator's opinion, Ms. [REDACTED] presented as competent, professional, and of great import, with a guarded, yet commanding persona. Ms. [REDACTED] frequently deflected questions in seamless fashion when asked to explain or justify her actions. She remained calm and matter-of-fact. When confronted with the alleged discrimination complaints against her, instead of



retreating, she took an offensive stance. After denying the allegations, she began to make assumptions about who she thought made the allegations, and immediately sought to sully their credibility. Ms. [REDACTED] subsequent tirade and histrionic protestations about her innocence were not convincing.

Ultimately, however, this investigator relied on the comparative weight between the supporting and refuting information vis-à-vis the sum of information presented. Other than each other, Mses. O'Hearon and [REDACTED] did not provide sufficient information to repudiate the allegations. Rather, this investigator ascribed greater weight to the independent corroboration obtained from the witnesses.

Based on the foregoing, this investigator finds it more likely than not that Jennifer O'Hearon and [REDACTED] use racial slurs and epithets when referring to African Americans, Mexicans, and Asians.

### Conclusion

As indicated above, this investigator concludes that based on the available information it appears that Jennifer O'Hearon and [REDACTED] engaged in the conduct described by complainants and other employees.

### Summary of Findings

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5.

6.

7.

**Analysis**

Decision-makers for Rio Blanco County are responsible for assessing whether the facts of this matter support the allegations presented here or otherwise establish unacceptable conduct. This investigation report is intended to be the tool for making that analysis by identifying the relevant allegations and addressing sources of supporting and refuting information. This investigator's commentary is also shared, but it is important to understand that another person, such as a judge or a juror, might reach different conclusions based on the same or additional information.

**END REPORT**

Respectfully submitted,

MOUNTAIN STATES EMPLOYERS COUNCIL, INC.

  
for Maria I. DeHowitt, Esq.  
Workplace Investigator

MDH/

Attachments