

IN THE EXECUTIVE ETHICS COMMISSION
OF THE STATE OF ILLINOIS

IN RE: BEVERLY ANDERSON,)
CYNTHIA PIERCE,)
MICHELLE KURY and)
HELEN MARSH) OEIG Case #12-00194

OEIG FINAL REPORT (REDACTED)

Below is an amended final summary report from an Executive Inspector General. The General Assembly has directed the Executive Ethics Commission (Commission) to redact information from this report that may reveal the identity of witnesses, complainants or informants and “any other information it believes should not be made public.” 5 ILCS 430/20-52(b).

The Commission exercises this responsibility with great caution and with the goal of balancing the sometimes-competing interests of increasing transparency and operating with fairness to the accused. In order to balance these interests, the Commission may redact certain information contained in this report. The redactions are made with the understanding that the subject or subjects of the investigation have had no opportunity to rebut the report’s factual allegations or legal conclusions before the Commission.

The Commission received this report from the Governor’s Office of Executive Inspector General (“OEIG”) and a response from the agency in this matter. The Commission, pursuant to 5 ILCS 430/20-52, redacted the final report and mailed copies of the redacted version and responses to the Attorney General, the Governor’s Executive Inspector General and to Beverly Anderson, Cynthia Pierce, Michelle Kury and Helen Marsh at their last known addresses.

The Commission reviewed all suggestions received and makes this document available pursuant to 5 ILCS 430/20-52.

FINAL REPORT

I. ALLEGATIONS

In February 2012, the Office of Executive Inspector General (OEIG) received a complaint alleging that [unfounded allegations redacted].¹

During the course of this investigation, the OEIG also found evidence that Personal Assistants working for DHS customers were fraudulently reporting their working hours.²

¹ [Redacted.]

² [Unfounded allegations redacted.]

II. BACKGROUND

A. Contract Between DHS and ACS

In May 2009, DHS entered into a five-year contract with ACS to provide debit card services for electronic payments to Personal Assistants working for DHS customers under the Home Service Program and child care providers working for DHS customers under the Child Care Assistance Program. Pursuant to the ACS contract, DHS transfers payments to ACS, and ACS then transfers the appropriate amount of payment to each of the Personal Assistants or service providers' debit cards. ACS is compensated through fees passed on to the debit card holder when withdrawals occur or when the card is used at a business.

B. Illinois Department of Human Services

The DHS Division of Rehabilitation, Home Services Program, is a State and federally funded program "... designed to prevent the unnecessary institutionalization of individuals who may instead be satisfactorily maintained at home at a lesser cost to the State."³ As part of the Home Services Program, DHS pays Personal Assistants to provide certain DHS customers assistance with household tasks, shopping, or personal care.⁴

Although DHS is responsible for ensuring that the funds available under the Home Services Program are administered in accordance with all applicable laws and for paying the Personal Assistants, DHS does not have control or input in the employment relationship between the customer and the Personal Assistant.⁵ The DHS customer has complete discretion in which Personal Assistant to hire. The DHS customer and the Personal Assistant enter into an Employment Agreement which outlines the services the Personal Assistant is to provide and requires the Personal Assistant to submit bi-monthly calendars listing actual hours worked each pay period as verified by the customer. The Employment Agreement states that the customer is responsible for employing, supervising, training, and disciplining as necessary the Personal Assistant.⁶ Since January 2012, the DHS Customer and the Personal Assistant are required to sign a DHS Individual Provider Payment Policies form which states that a Personal Assistant cannot charge DHS for the same hours worked when working another job, including working for other HSP customers.

Prior to January 1, 2014, Personal Assistants recorded their starting and ending times on paper forms, and the DHS customers signed the forms to verify that the information was correct. The paper forms were then turned into a local DHS office for processing for payment to Personal Assistants. On January 1, 2014, DHS implemented the Electronic Visit Verification system, which is a telephone and computer based time keeping system that requires a Personal Assistant to call in from the DHS customer's home using the DHS customer's landline or cellular telephone each time they start and end providing services.

³ 89 Ill. Admin. Code 676.10(a).

⁴ 89 Ill. Admin. Code 686.20.

⁵ 89 Ill. Admin. Code 676.10(c).

⁶ 89 Ill. Admin. Code 686.10(h).

III. INVESTIGATION

A. [Redacted]

[The following section, consisting of approximately 1 ¼ pages, relates to allegations that the OEIG has determined to be unfounded. The Commission exercises its authority pursuant to 5 ILCS 430/20-52 to redact this section.]⁷

B. Investigation into Potential Fraud by Personal Assistants

In light of the issues with payments to Personal Assistants under the ACS contract, the OEIG took steps to determine what fraud, if any, may be occurring in regard to hours reportedly worked by Personal Assistants. The OEIG also began to monitor the progress of the Electronic Visit Verification system after its implementation in January 2014. The OEIG obtained and analyzed various reports pertaining to Personal Assistants before and after the implementation of the Electronic Visit Verification system.⁸ Relevant findings are discussed below.

1. Personal Assistant Beverly Anderson

Beverly Anderson worked for DHS as a Mental Health Technician and also worked as a Personal Assistant for a DHS customer (DHS Customer 1). The OEIG obtained and analyzed the DHS Employee Timesheets and the Personal Assistant timesheets submitted by Ms. Anderson.⁹

The OEIG's preliminary investigation into Ms. Anderson revealed that, between April 2012 and November 2013, she reported working at DHS during the same hours she reported working as a Personal Assistant for DHS Customer 1, for a total of approximately 137 hours of work for which she received approximately \$1,582 in State payments for the alleged Personal Assistant services (not including her State salary).¹⁰ Additionally, DHS personnel records reflect that Ms. Anderson was on medical leave from her DHS employment from January 2013 through mid-March 2013 and has been on medical leave since early December 2013, but reported

⁷ [Redacted]

⁸ The OEIG conducted additional analysis pertaining to Personal Assistants although that is not discussed in this Final Report because no issues of potential fraud were identified.

⁹ The OEIG also requested some DHS personnel documents for Ms. Anderson and found that she had not filed a secondary employment form with DHS for her work as a Personal Assistant.

¹⁰ On some dates, Ms. Anderson recorded working a total of 3 hours, but the times she recorded working exceed 3 hours in length. For example, on April 5, 2013, Ms. Anderson reported her starting and ending times in blocks of times that total 4 hours, as follows: 9:00 to 11:00 a.m., 4:00 to 5:30 p.m., and 9:00 to 9:30 p.m. However, Ms. Anderson only claimed 3 hours of work as Personal Assistant on that day. Thus, it is unclear if Ms. Anderson worked the entire blocks of time listed or worked 3 hours within those blocks of times. Therefore, the OEIG's findings on Ms. Anderson's hours of potential double billing for her Personal Assistant services and her work at DHS are estimates. The estimated losses cited in this report are based on the Personal Assistant pay rate in 2012 of \$11.55 per hour, however, the Personal Assistant hourly pay rate has increased over time.

performing Personal Assistant services during these time periods.¹¹ The OEIG analyzed Ms. Anderson's Personal Assistant timesheets from January through March 2013 and December 2013 through April 2014 and found that Ms. Anderson reported performing Personal Assistant duties for DHS Customer 1 for an approximate total of 408 hours of work for which she would have received approximately \$4,712 in State payments. Ms. Anderson signed her Personal Assistant timesheets certifying that the information contained in the timesheets was true and that she understood that falsification of any information on the form could lead to criminal prosecution.

On August 10, 2015, OEIG investigators spoke with Ms. Anderson by telephone and requested to schedule an interview of her regarding her Personal Assistant timesheets. Ms. Anderson declined to meet with OEIG investigators for an interview.

The OEIG interviewed DHS [Employee 1]. [Employee 1] has served in her current position since July 2005 and works as a counselor for DHS Customer 1, for whom Beverly Anderson previously worked as a Personal Assistant. [Employee 1] said that she completed a service plan listing the types of services required by DHS Customer 1, including, but not limited to, assistance bathing (lowering and raising into the bath), grooming, preparing meals, doing dishes, laundry, and general housework. When asked if a Personal Assistant with various medical conditions (similar to Ms. Anderson's) would be able to physically perform the Personal Assistant services listed in the service plan for DHS Customer 1 shortly thereafter, [Employee 1] said, "No, absolutely not."

[Employee 1] said that Ms. Anderson was usually present in DHS Customer 1's home when [Employee 1] visited him. She said that DHS Customer 1 appeared to be well taken care of, she never observed anything that would have led her to believe that Ms. Anderson was unable to perform the required services, nor did she ever suspect that Ms. Anderson may be submitting fraudulent timesheets. [Employee 1] said, that on July 2, 2014, she telephoned Ms. Anderson and asked why the Springfield DHS office would be requesting Ms. Anderson's Personal Assistant timesheets. She said that Ms. Anderson told her at that time she (Ms. Anderson) was receiving disability benefits and that Ms. Anderson terminated her Personal Assistant employment for medical reasons the same day.

2. Personal Assistant Cynthia Pierce

The OEIG found that Cynthia Pierce worked at the Jackson County Sheriff's Department as a Maintenance Worker and also worked as a Personal Assistant for a DHS customer (DHS Customer 2) in 2012 and 2013, but stopped working as a Personal Assistant in December 2013. The OEIG obtained Ms. Pierce's Personal Assistant records and timesheets and subpoenaed her Jackson County Sheriff's Department timesheets. On her timesheets from November 2012 through December 2013, Ms. Pierce indicated that she worked at the Jackson County Sheriff's Department during the same hours she claimed to be performing work as Personal Assistant for DHS Customer 2 for an approximate total of 387 hours for which she received approximately

¹¹ The OEIG obtained via subpoena Ms. Anderson's medical records from her treating physician pertaining to her medical leave beginning December 2013 to determine the nature of her medical condition and thus determine whether she may have been able to perform Personal Assistant services for DHS Customer 1.

\$4,469 in State payments.¹² Ms. Pierce signed her Personal Assistant timesheets certifying that the information contained in the timesheets was true and that she understood that falsification of any information on the form could lead to criminal prosecution.

The OEIG interviewed DHS Customer 2 who said that she and Ms. Pierce are friends and that Ms. Pierce worked as her Personal Assistant when Ms. Pierce got off work from her job at the Jackson County Sheriff's Department. DHS Customer 2 said that she stopped receiving Personal Assistant services in December 2013 because neither she nor Ms. Pierce understood or wanted to deal with the Electronic Visit Verification system that DHS was implementing and that the new system seemed very complicated. DHS Customer 2 said that, when Ms. Pierce worked as a Personal Assistant for her, Ms. Pierce would fill out a timesheet for two weeks of services, and DHS Customer 2 would review the timesheets for accuracy, sign the timesheets, and return the timesheets to Ms. Pierce to deliver to the local DHS office.

On August 10, 2015, OEIG investigators spoke with Ms. Pierce by telephone and requested to schedule an interview of her regarding her Personal Assistant timesheets. Ms. Pierce declined to be interviewed by the OEIG. Ms. Pierce said that she was interviewed in July 2015 by an Illinois State Police (ISP) employee regarding her Personal Assistant timesheets and said that she told the ISP employee that she did not accurately record her service hours working as Personal Assistant to the minute. Ms. Pierce said that she provided the ISP employee with a written statement and faxed a copy of the written statement to the OEIG. In the April 13, 2015 written statement, Ms. Pierce wrote that she worked as a Personal Assistant for a relative and she knew the hours she listed were "wrong." Ms. Pierce further wrote that she worked the required hours as a Personal Assistant and provided the services after she got off work from her other job, but her relative thought she could only report Personal Assistant services in the morning hours. Ms. Anderson wrote, "...there was no intent to mislead anyone."

The OEIG learned that Ms. Pierce had been interviewed by Special Agent [Agent 1] of the ISP Medicaid Fraud Control Bureau. The OEIG contacted [Agent 1], who provided the OEIG with his investigative reports, including interviews of Ms. Pierce and DHS Customer 2. [Agent 1's] investigative reports indicated that he interviewed Ms. Pierce on March 31, 2015, and Ms. Pierce said the following:

- the total number of hours she reported working was accurate;
- she worked as a Personal Assistant in the afternoons, and her Personal Assistant timesheets that indicate she performed the hours in the mornings did not correctly reflect the times she performed those services;
- Customer 2 misunderstood the rules and thought she could only have Personal Assistant services in the morning hours;
- Customer 2 contacted a DHS caseworker, asked the DHS caseworker if the service hours should be switched to the afternoon, and the DHS caseworker said that as long as the hours were completed and DHS had knowledge of the situation, it was not necessary to change the hours at that time; and

¹²The OEIG was unable to analyze records prior to November 16, 2012, because the format of those Personal Assistant timesheets did not require the Personal Assistant or the customer to document the actual time(s) that services were provided, only the total number of hours of services worked each day.

- she had no intention of defrauding DHS or claiming she worked hours that she did not work.

[Agent 1] also interviewed Customer 2 on April 1, 2015. The investigative report from this interview indicates that Customer 2 provided the same basic information as Ms. Pierce.

3. Personal Assistant Michelle Kury

The OEIG found that, from April through October 2013, Personal Assistant Michelle Kury reported that she performed services simultaneously for DHS customers who resided at different addresses in the same city and on some occasions another DHS customer who resided in a different city. In total, Ms. Kury double-billed the State for approximately 139 hours. In other words, while Ms. Kury's hourly rate for 139 hours would be approximately \$1,605, she received twice that amount for these 139 hours because she claimed she was working for two clients simultaneously.¹³ Ms. Kury signed her Personal Assistant timesheets certifying that the information contained in the timesheets was true and that she understood that falsification of any information on the form could lead to criminal prosecution. Additionally, in 2013 Ms. Kury and three of her customers signed Individual Provider Payment Policies which state that Personal Assistants cannot charge DHS for the same hours worked when working for other DHS customers. On August 18, 2015, OEIG investigators spoke to Ms. Kury by telephone and requested to schedule an interview of her regarding her Personal Assistant timesheets. Ms. Kury declined to be interviewed.

4. Personal Assistant Helen Marsh

The OEIG also found that, from January through October 2013, Personal Assistant Helen Marsh indicated that she performed services simultaneously for different DHS customers who resided in different cities for a total of 28 hours. In other words, while Ms. Marsh's hourly rate for 28 hours would be approximately \$323, she received twice that amount because she claimed to be working for two clients simultaneously.¹⁴ Ms. Marsh signed her Personal Assistant timesheets certifying that the information contained in the timesheets was true and that she understood that falsification of any information on the form could lead to criminal prosecution.¹⁵ On August 10, 2015, OEIG investigators spoke by telephone with Ms. Marsh and requested to schedule an interview of her regarding her Personal Assistant timesheets. Ms. Marsh declined to meet with OEIG investigators for an interview.

IV. ANALYSIS

A. [Redacted]

¹³ The OEIG requested from DHS the Personal Assistant timesheets for Ms. Kury and these DHS customers through April 2014, and only received timesheets for these customers through October 2013. Therefore, it appears that Ms. Kury stopped serving as a Personal Assistant to these customers in October 2013.

¹⁴ The OEIG requested from DHS the Personal Assistant timesheets for Ms. Marsh and these DHS customers through April 2014, and only received timesheets through October 2013. Therefore, it appears that Ms. Kury stopped serving as a Personal Assistant to these customers in October 2013.

¹⁵ According to the DHS Ethics Officer, the Individual Provider Payment Policies form was developed by DHS as a new form in January 2012, and DHS did not have the Individual Provider Payment Policies for Ms. Marsh.

[The following paragraph relates to allegations that the OEIG has determined to be unfounded. The Commission exercises its authority pursuant to 5 ILCS 430/20-52 to redact this section.]¹⁶

B. Personal Assistants Submission of Inaccurate Time Records

The State Officials and Employees Ethics Act provides that the OEIG shall have jurisdiction over officers, employees, vendors, and others “doing business” with certain executive branch State agencies, including DHS.¹⁷ The OEIG has determined that Personal Assistants fall under the OEIG’s jurisdiction as “doing business” with DHS by virtue of being paid by DHS and because the State sets the basic, minimum qualifications necessary for an individual to serve as a Personal Assistant.¹⁸

As mentioned above, the Illinois Administrative Code provides that a Personal Assistant shall submit bi-monthly calendars listing *actual hours worked* each pay period, as verified by the DHS customer.¹⁹ The OEIG’s investigation indicates there is reasonable cause to believe that former Personal Assistants Beverly Anderson, Cynthia Pierce, Michelle Kury, and Helen Marsh submitted calendars for their Personal Assistant services that did not list their actual hours worked.

1. Personal Assistant Beverly Anderson

From April 2012 through November 2013, Ms. Anderson reported working at DHS during the same hours she reported working as a Personal Assistant for a total of approximately 137 hours of work for which she was paid approximately \$1,582 in State payments. Additionally, while on medical leave, Ms. Anderson reported performing Personal Assistant services, which would have included assistance lowering and raising DHS Customer 1 in the bathtub, preparing meals, doing dishes, laundry, and general housework. From January through mid-March 2013 and December 2013 through April 2014, Ms. Anderson reported performing Personal Assistant services for DHS Customer 1, all while on medical leave from DHS, for approximately 408 hours of work for which she received approximately \$4,712 in State payments. When asked about various medical conditions (similar to Ms. Anderson’s), [Employee 1] said that a Personal Assistant with those conditions could not have performed the services DHS Customer 1 required. Moreover, when asked why the Springfield DHS office would be requesting her records, Ms. Anderson replied that she was receiving disability payments and voluntarily terminated her Personal Assistant employment the same day. This suggests that Ms. Anderson believed that her continued employment as a Personal Assistant was improper based on her disability. The OEIG requested to interview Ms. Anderson about her Personal Assistant timesheets, and she declined to be interviewed. Based on the foregoing, the

¹⁶ [Redacted]

¹⁷ 5 ILCS 430/20-10(c).

¹⁸ 89 Ill. Adm. Code 686.10. While 20 ILCS 2405/3(f) provides that Personal Assistants under the DHS Home Services Program are State employees, the law specifically states that it is solely for the purposes of coverage under the Illinois Public Labor Relations Act.

¹⁹ 89 Ill. Adm. Code 686.10(h)(2).

allegation that Ms. Anderson failed to list her actual hours worked as a Personal Assistant is **FOUNDED**.²⁰

2. Personal Assistant Cynthia Pierce

Cynthia Pierce worked at the Jackson County Sheriff's Department as a Maintenance Worker and also worked as a Personal Assistant for DHS Customer 2. On her timesheets, Ms. Pierce indicated that, from November 2012 through December 2013, she worked at the Jackson County Sheriff's Department during the same hours she claimed to be performing work as a Personal Assistant for a total of 387 hours for which she received approximately \$4,469 in State payments. DHS Customer 2 said that Ms. Pierce worked as her Personal Assistant when Ms. Pierce got off work from her job at the Jackson County Sheriff's Department. Ms. Pierce declined to be interviewed by the OEIG, but provided a written statement she gave in April 2015 to ISP stating that she knew the hours listed on her Personal Assistant timesheets were wrong, although she claimed that the total number of hours reported was accurate. Regardless, Ms. Pierce was required to report the actual hours she worked as a Personal Assistant and failed to do so. Therefore, the allegation that Cynthia Pierce failed to list her actual hours worked as a Personal Assistant is **FOUNDED**.

3. Personal Assistant Michelle Kury

The OEIG found that, from April through October 2013, Michelle Kury reported that she performed Personal Assistant services for multiple DHS customers in different locations at the same time for an approximate total of 139 hours. Because she was not permitted to bill the same hours twice, she received approximately \$1,605 more in State payments than she should have received. On August 18, 2015, Ms. Kury declined to be interviewed by the OEIG regarding her Personal Assistant timesheets. Based on the foregoing, the allegation that Michelle Kury failed to list her actual hours worked as a Personal Assistant is **FOUNDED**.

4. Personal Assistant Helen Marsh

The OEIG found that, from January through October 2013, Helen Marsh indicated that she performed Personal Assistant services for up to three DHS customers who resided in different cities at the same time for an approximate total of 28 hours. Because she was not permitted to bill the same hours twice, she received approximately \$323 more in State payments than she should have received. On August 10, 2015, Ms. Marsh declined to meet with OEIG investigators for an interview regarding her Personal Assistant timesheets. Based on the foregoing, the allegation that Helen Marsh failed to list her actual hours worked as a Personal Assistant is **FOUNDED**.

V. FINDINGS AND RECOMMENDATIONS

²⁰ The OEIG concludes that an allegation is "founded" when it has determined that there is reasonable cause to believe that a violation of law or policy has occurred, or that there has been fraud, waste, mismanagement, misconduct, nonfeasance, misfeasance, or malfeasance.

Following due investigation, the OEIG issues these finding:

- **UNFOUNDED** – [Redacted].
- **FOUNDED** – Beverly Anderson failed to report the actual hours she worked as a Personal Assistant.
- **FOUNDED** – Cynthia Pierce failed to report the actual hours she worked as a Personal Assistant.
- **FOUNDED** – Michelle Kury failed to report the actual hours she worked as a Personal Assistant.
- **FOUNDED** – Helen Marsh failed to report the actual hours she worked as a Personal Assistant.

The OEIG recommends that DHS consider taking steps to attempt to recover from Beverly Anderson, Cynthia Pierce, Michelle Kury, and Helen Marsh any money paid to each of them for services as a Personal Assistant at times when they could not have been performing those services. Additionally, the OEIG recommends that Beverly Anderson, Cynthia Pierce, Michelle Kury, and Helen Marsh not be permitted to regain employment as Personal Assistants.²¹

No further investigative action is warranted and this case is considered closed.

Date: December 21, 2015

Office of Executive Inspector General
for the Agencies of the Illinois Governor

Melissa Rollins
Assistant Inspector General

William Parker
Investigator #121

²¹ [Redacted].



Bruce Rauner, Governor

James T. Dimas, Secretary-designate

January 11, 2016

Via e-mail to Thomas Klein, Deputy Inspector General and Chief of the Springfield Division, on behalf of:

Maggie Hickey

Executive Inspector General

Office of the Executive Inspector General for the Agencies of the Illinois Governor

69 West Washington Street, Suite 3400

Chicago, Illinois 60602

RE: Response to the Final Report for Complaint 12-00194

Dear Executive Inspector General Hickey:

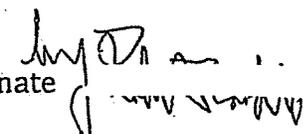
This letter responds to the Final Report for Complaint Number 12-00194, attached. The Report details founded allegations of fraudulent billing in the Home Services Program (HSP). It recommends that the fraudulently paid money be recovered and that the named individuals not regain employment as Personal Assistants.

The Department of Human Services (DHS) is following the recommendations. The HSP Fraud Unit has begun activities to terminate the services of the four individuals, as well as recover the improperly paid money. In addition, the four individuals will not work for HSP in the future. An electronic system, called WebCM, captures information about all Personal Assistants (PAs). Once a PA has been terminated via WebCM, any attempt to re-apply will be flagged, so if they do attempt to re-apply, staff will know to deny the application. As an aside, standard protocol is for such fraud to be reported to the Department of Healthcare and Family Services (HFS), Office of the Inspector General (OIG), which will decide whether to bar the person from obtaining payment for Medicaid services. Given the amount in question, DHS staff believes the HFS OIG will place the people on the barred list.

Finally, DHS expects nefarious activities such as those described in the Report will be caught and negated by the Electronic Visit Verification system.

This matter is now considered closed by DHS. If you have any questions, please feel free to contact Robert J. Grindle, DHS' Ethics Officer.

Regards, 

James T. Dimas 
Secretary-designate



Bruce Rauner, Governor

James T. Dimas, Secretary-designate

April 13, 2016

Via e-mail to Thomas Klein, Deputy Inspector General and Chief of the Springfield Division, on behalf of:

Maggie Hickey

Executive Inspector General

Office of the Executive Inspector General for the Agencies of the Illinois Governor

69 West Washington Street, Suite 3400

Chicago, Illinois 60602

RE: Update to the Response for Complaint 12-00194

Dear Executive Inspector General Hickey:

This letter provides an update for the response to the Final Report for Complaint Number 12-00194. The Report essentially recommends employment termination of four individuals and recovery of funds.

The following four individuals have been terminated from the Home Services Program as Personal Assistants: Beverly Anderson, Michelle M. Kury, Helen Marsh and Cynthia Pierce.

In addition, the Department has initiated recovery of the improperly paid funds. The table below indicates the total debt amount and the amount repaid so far.

Individual	Amount Due	Repaid Amount To Date
Beverly Anderson	\$6,294.00	\$100.00
Michelle M. Kury	\$1,608.34	\$0.00
Helen Marsh	\$326.29	\$26.29
Cynthia Pierce	\$4,469.85	\$4,469.85

As all disciplinary actions have been completed, and only collection activities remain (which will occur in the normal course), this matter is now considered closed with respect to your office. If you have any questions, please feel free to contact Robert J. Grindle, DHS' Ethics Officer.

Regards,

James T. Dimas
Secretary-designate