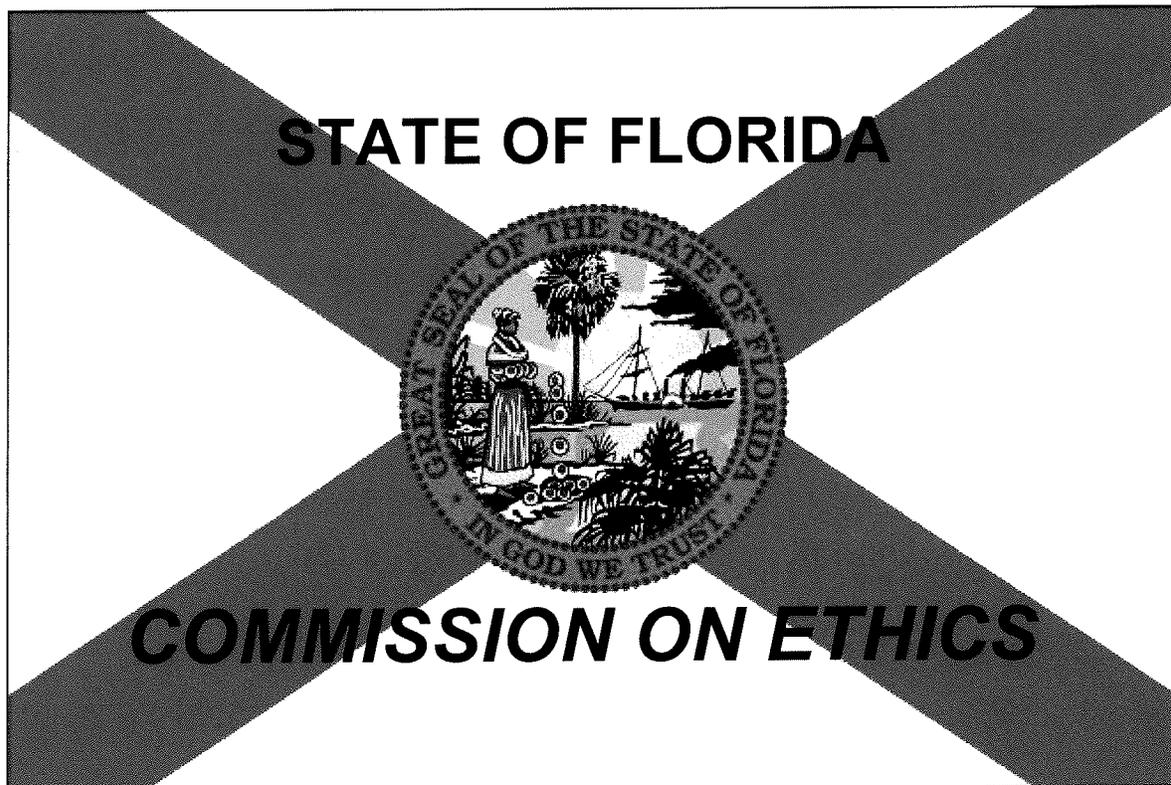


REPORT OF INVESTIGATION



Complaint Number 22-027

NOTICE CONCERNING CONFIDENTIALITY

This report of investigation concerns an alleged violation of Chapter 112, Part III, Florida Statutes, or other breach of public trust under provisions of Article II, Section 8, Florida Constitution. The Report and any exhibits may be confidential (exempt from the public records law) pursuant to Section 112.324, Florida Statutes, and Chapter 34-5, F.A.C., the rules of the Commission on Ethics. Unless the Respondent has waived the confidentiality in writing, this report will remain confidential until one of the following occurs: (1) the complaint is dismissed by the Commission; (2) the Commission finds sufficient evidence to order a public hearing; or (3) the Commission orders a public report as a final disposition of the matter. *See Section 112.3215, Florida Statutes, regarding executive branch lobbying matters and confidentiality.

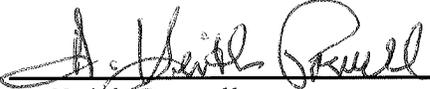
STATE OF FLORIDA
COMMISSION ON ETHICS
Post Office Drawer 15709
Tallahassee, Florida 32317-5709

REPORT OF INVESTIGATION

TITLE: ERNESTO TORRES
Former City Commissioner
Saint Augustine Beach, Florida

COMPLAINT NO.: 22-027

INVESTIGATED BY: 
John Cizmada


A. Keith Powell

Distribution: Commission on Ethics
Respondent
Advocate
File

Releasing Authority: 
Kerrie J. Stillman
Executive Director


Date

* * * *

**REPORT OF INVESTIGATION
COMPLAINT NO. 22-027**

(1) Mr. Daniel Carswell, who serves as the St. Augustine Beach Chief of Police, alleges then-St. Augustine Beach City Commissioner Mr. Ernesto Torres, violated the Code of Ethics for Public Officers and Employees. The Respondent resigned from the City Commission on January 31, 2022.

(2) The complaint alleges the Respondent placed 29 phone calls to St. Augustine Beach Chief Carswell and 18 phone calls to St. Augustine Beach Commander Travis Harrell, and one phone call to St. Johns County Sheriff Robert Hardwick, in an attempt to solicit their intervention in the contemporaneous arrest of the Respondent's wife. In phone calls that Chief Carswell answered, the Respondent allegedly sought the Chief's assistance asking that he (Chief Carswell) intervene. The Respondent allegedly said, "Come on, Chief, please," and, "Dan, please," repeatedly, and also said, "Are you serious, you are not going to help me?" once. During his interactions with the arresting officers, the Respondent allegedly asked them not to arrest his wife and made reference to his position as a City Commissioner, saying, "You feel good about yourselves? I voted for pay raises for you guys. You are welcome." The complaint further alleges that when Chief Carswell refused to intervene in the arrest of Respondent's wife, Respondent indicated he might view Chief Carswell unfavorably "if you [Chief Carswell] don't help me."

(3) The Executive Director of the Commission on Ethics noted that, based upon the information provided in the complaint, the above-referenced allegations were sufficient to warrant a preliminary investigation to determine whether the Respondent's actions violated Article II, Section 8(g)(2), Florida Constitution (Disproportionate Benefit), and Sections 112.313(2), Florida Statutes (Solicitation or Acceptance of Gifts) and 112.313(6), Florida Statutes (Misuse of Public Position).

(4) The Complainant provided a "Statement of Facts" appended as pages 12 through 15 of the complaint in this matter, detailing his interactions with the Respondent. Chief Carswell stated that on January 23, 2022, at 12:13 am, he received a telephone call from Commander Harrell informing him a traffic stop of Nicole Torres, the Respondent's wife, was going to result in her arrest for "Driving Under the Influence." Commander Harrell informed Chief Carswell the Respondent was calling him (Harrell) but he was not answering the Respondent's calls. Soon thereafter, the Chief wrote, the Respondent began calling him. After multiple attempts by the Respondent to contact him, Chief Carswell said he answered a call from the Respondent at 12:25 am. The Respondent's speech, he observed, was mumbled and slurred. He said the Respondent repeatedly said, "Chief, I'm sorry." Chief Carswell said when he asked the Respondent what was wrong, the Respondent said his wife was in handcuffs and was sitting in a patrol vehicle. Chief Carswell said he asked the Respondent why, and the Respondent said he believed she may have had too much to drink. He said the Respondent repeatedly said, "Come on Chief, please," and "Dan, please." The Respondent, he said, then handed his phone to Corporal Bruce Cline who was at the scene. Corporal Cline advised him (Carswell) that the Respondent's conduct was becoming borderline criminal due to obstruction, which could eventually land the Respondent in jail. Chief Carswell said he

instructed Corporal Cline to handle the situation as he would for any other citizen and he also told Corporal Cline to advise the Respondent not to call him (Carswell) again. Thereafter, while being updated on the matter by Commander Harrell, Chief Carswell said he again began receiving repeated telephone calls from the Respondent. He said he finally answered one of the calls at 12:35 am and he advised the Respondent he was communicating with his staff and his (Respondent's) repeated calls were interfering with his duties. However, the calls from the Respondent did not end and, at 12:40 am, Chief Carswell said, he answered another call from the Respondent and he (Carswell) advised the Respondent his (Respondent's) wife would be taken to jail and he (Respondent) should accept the offer of officers on scene to be transported home. At that point, Chief Carswell said, the Respondent became aggressive and refused to accept that Mrs. Torres was being arrested saying, "I served overseas with [Sheriff] Robby [Hardwick]. Really? This is what you are going to do? That's fine. I will call the Sheriff." Chief Carswell said he warned the Respondent not to call the Sheriff and again encouraged him to accept a ride home due to him being intoxicated. The Respondent, he said, replied, "Are you serious? You are not going to help me?" He said he told the Respondent he was being placed by him (Respondent) in a tough position and he (Carswell) was losing respect for the Respondent. He said he told the Respondent it would be unethical for him (Carswell) to intervene and, if he did, it could cost him (Carswell) his job and affect the credibility of the Department. The Respondent answered, "Well, think of all the credibility you will be losing with me if you don't help me." Chief Carswell said he took that comment as a direct threat to both him and the Department and he told the Respondent he did not appreciate his comments and hung up on him. After hanging up, he said, the Respondent attempted to reach him by phone 17 more times and once by text. In total, Chief Carswell said, he received 29 phone calls from the Respondent and Commander Harrell received 18 calls. Later, in speaking with Corporal Cline, he said, he learned the Respondent said to officers on scene, "You feel good about yourselves? I voted for pay raises for you guys. You are welcome."

(5) Chief Carswell, when interviewed, stated that neither he, nor his Department, had ever experienced any issues involving the Respondent until this incident. Chief Carswell explained he serves at the pleasure of the five-person City Commission. Chief Carswell recalled that on the night in question, January 22, 2022, and into the morning hours of January 23, 2022, he was notified via the chain of command of the traffic stop and investigation involving Mr. & Mrs. Torres. Chief Carswell said Commander Harrell called and informed him that Mrs. Torres was stopped for a traffic violation and that the Respondent was the passenger. Chief Carswell said the Respondent kept apologizing and saying "Chief, I'm sorry." He said the Respondent explained his wife was stopped, she was drunk, and she was in handcuffs. According to Chief Carswell, the Respondent never specifically asked him to do anything, but he kept apologizing, saying, "Chief, I'm sorry. Dan, Dan, Please! Come on Dan. My wife is in the back of the car. Help me!" During one of the calls, Chief Carswell said the Respondent approached Corporal Cline's patrol vehicle and began knocking on the window. Chief Carswell said he could hear the conversation between Corporal Cline and the Respondent, and the Respondent showed Corporal Cline his (Respondent's) telephone, which displayed the Chief's name and number. According to Chief Carswell, Corporal Cline, upon taking the Respondent's phone, reported to him, (Carswell) that Mr. Torres was close to being arrested. Chief Carswell instructed Corporal Cline to handle the situation as he would any other investigation and to tell the Respondent not to call him again. Chief Carswell recalled

after he informed the Respondent they could discuss the matter the following morning, Mr. Torres became upset and more aggressive in their conversation saying he planned to call the Sheriff, with whom he served in the military. Chief Carswell said he encouraged the Respondent multiple times to accept the ride home due to his intoxicated state. According to Chief Carswell, the Respondent stated, "If you don't help me, think of all the credibility you will lose with me and the Commission." Chief Carswell said he commented to the Respondent "Excuse me?" and the Respondent reiterated again, "Think of the credibility you'll lose if you don't help me." Chief Carswell said he hung up at that time. After that conversation, Chief Carswell said, he received 17 more calls and one text message from the Respondent, which he did not return. He said he received a total of 29 telephone calls that evening and Commander Harrell received a total of 18 telephone calls.

(6) Chief Carswell said he was concerned for the Department because the Respondent had always been professional, pro-police, and supportive of the Department. Chief Carswell said he spoke with Corporal Cline, who also was concerned, because the Respondent mentioned to Cline he was a "Commissioner" and asked, "Don't you know who I am?" as Mrs. Torres was placed under arrest. He advised the Respondent also began clapping his hands, and stating "Congratulations guys, congratulations. You're a joke. You guys are a freaking joke." According to Chief Carswell, during his conversation with Corporal Cline, Cline further mentioned, the Respondent asked "Do you feel good about yourselves? I voted for your pay raises. You're welcome!" Chief Carswell said Corporal Cline was concerned for the Department and his (Cline's) career if the Respondent continued to serve as a City Commissioner. Chief Carswell said he was concerned for his career and the Department as well. He notes, the Respondent repeatedly pleaded for help, but never mentioned his position of authority, nor did he specifically ask him for any favors or promise anything in return if he (Chief Carswell) intervened. Chief Carswell said he believed it was implied in the Respondent's statements that he was asking him to intervene in the arrest. Chief Carswell noted he reports directly to the Commission and this situation made him very uncomfortable. At that point, Chief Carswell said, he reached out to the Mayor, and the City Attorney prior to preparing the instant complaint to the Commission on Ethics.

(7) Commander Harrell, when interviewed, recalled the Respondent told the Officers on-scene that "they were a joke." Commander Harrell said he received multiple calls and texts from the Respondent that evening asking him to return the calls. According to Commander Harrell, he never responded to the messages from the Respondent.

(8) Corporal Cline stated by telephone that, on the night in question, January 22, 2022, into the morning hours of January 23, 2022, the Respondent was impaired and uncooperative. Corporal Cline advised that, at the time of the stop, he was not familiar with the Respondent, or his position as City Commissioner. According to Corporal Cline, when the Respondent's wife was placed under arrest, the Respondent's demeanor changed from pleading with the officers to a level of denial and anger. Corporal Cline said he asked the Respondent several times to stay in his vehicle and to contact someone to come take custody of the vehicle, or it would need to be towed. Corporal Cline confirmed that the Respondent placed a call to Sheriff Hardwick and left a message seeking assistance. Thereafter, Corporal Cline said, he again, asked the Respondent to call someone, and to stay in the vehicle. Corporal Cline said

he returned to his patrol vehicle and, moments later, he (Cline) observed the Respondent, unsteadily stumbling as he approached him (Cline). According to Corporal Cline, the Respondent began pulling on the door handle of his patrol vehicle in an attempt to open the door. Corporal Cline said the Respondent, failing to follow orders, handed him (Cline) his (Respondent's) cell phone which displayed Chief Carswell's name. After a brief conversation, he (Cline) said, the Chief instructed him to handle this situation professionally. Corporal Cline said the Respondent became agitated and angrier. He confirmed the Respondent began clapping his hands, and saying "Wow. Great job guys. You guys are a joke. Do you feel good about yourselves?" Corporal Cline said the Respondent continued his rant, "I've been to Iraq with Robbie Hardwick. What are you going to do? Arrest me too?" According to Corporal Cline, the Respondent continued berating the officers, stating, "Wow, after all I've done for you guys. I've voted to give your department a pay increase. You're welcome by the way. I always support everything for the Beach Police Department, and this is the thanks you give me. You guys are a joke." Corporal Cline said the Respondent never asked for a specific favor, but it was implied that he wanted the arrest to stop. During the investigation on the evening in question he said he learned of the Respondent's position as a Commissioner from another officer. Corporal Cline said he was uncomfortable with the Respondent's actions, and he reported this incident, via the chain of command, to Chief Carswell, because of the potential implications concerning for his career and the Department.

(9) The Respondent, Mr. Torres, advised he formerly served as a St. Augustine Beach City Commissioner from 2020 until he resigned in January of 2022. Mr. Torres said he did not complete a full term in office. Mr. Torres reflected on the events from the late evening hours of January 22, 2022, into the morning hours of January 23, 2022, and said he and his then-wife, Nicole Torres, were returning home from a local establishment when they were pulled over. The Respondent said his wife was driving and he was the passenger. There were two law enforcement agencies, St. Augustine and St. Augustine Beach involved in the stop, who suspected his wife of Driving Under the Influence (DUI). According to Mr. Torres, his wife refused to submit to a field sobriety test, or make any statements, and she was arrested on suspicion of DUI. The Respondent reflected on his conduct and said, "I'm not proud of my behavior." He admitted calling Chief Carswell on the night of his wife's arrest, and admitted the behavior and comments as described in the complaint. Mr. Torres said the complaint filed against him is an accurate description of the events from the night in question. He stated, "I don't deny that." He continued, "Well. I can't. I can't defend my actions or what was said, or anything like that, because they were unbecoming of any professional, not just a politician. It's very out of nature for me to do that. I cannot deny that." Mr. Torres said he later attempted to apologize to Chief Carswell and Commander Harrell. However, his Attorney, he said, advised against that. Mr. Torres admitted to making the statement, "I voted for pay raises," to the officers on scene, which, he said, was "foolish" and was due to his alcohol consumption. Mr. Torres also admitted to making multiple calls to Chief Carswell and Commander Harrell, including saying to the Chief that he (the Chief) might lose credibility with him (Torres) if he (the Chief) failed to intervene. These events, the Respondent said, prompted him to resign as a City Commissioner for the City of St. Augustine Beach because he believed it was the right thing to do. Mr. Torres also acknowledged trying to contact St. John's County Sheriff Robert Hardwick while at the scene, but said he was unable to reach him until the following day. Mr. Torres said Sheriff Hardwick was aware of the arrest of his

wife, and gave him some advice regarding how to proceed. Mr. Torres said a couple of days later, he called Sheriff Hardwick and apologized for his behavior in trying to reach him on the night in question.

END OF REPORT OF PRELIMINARY INVESTIGATION