

CCMS No: 08-05-374

Confidential
Conduct Complaint Investigation

Allegations of Employee Misconduct

**CITY OF TACOMA
CONFIDENTIAL MEMORANDUM**

TO: Eric Anderson, City Manager
Tansy Hayward, Asst. City Manager
Elizabeth A. Pauli, City Attorney

FROM: Tracy R. Storwick, Risk Analyst *JRS*

DATE: December 22, 2008

RE: Investigation of Conduct Complaint #08-05-374

SUMMARY

On May 21, 2008, Elizabeth A. Pauli, City Attorney, requested I conduct an investigation into Conduct Complaint No. 08-05-374. The complaint alleged that City employee, China Fortson, Human Rights/Human Services ("HR/HS") Domestic Violence Project Specialist, had inappropriately used her City position and City funds to benefit a personal friend, Ms. Keisha Jackson.

Allegations of misconduct were brought forth by Grant Blinn, Pierce County Deputy Prosecuting Attorney. Mr. Blinn's concerns involved perceived misuse by Ms. Fortson of her professional position as a Domestic Violence Advocate and an allegation of her use of public funds to post bail for defendants facing felony charges.

After meeting with Mr. Blinn on May 22, 2008, I contacted, via telephone, Mr. Kelvin Jackson (Keisha Jackson's ex-husband). On May 23, 2008, I met with Mr. John Brieht, HR/HS Director and Ms. Jacqueline Strong-Moss, HR/HS Manager. On May 30, 2008, I met with Ms. China Fortson. In addition to these interviews, I reviewed copious documents that were provided to me from Mr. Blinn, Ms. Strong-Moss, Ms. Fortson, Mr. Jackson, Ms. Susan Brown, the City of Tacoma Finance and Purchasing Department, and Tacoma Municipal Court.

The allegation that Ms. Fortson used her City position and City funds for the benefit of Ms. Jackson without a sufficient nexus between Ms. Fortson's activities and the purpose and limitations of the Domestic Violence Program is supported by this investigator's factual findings. However, the investigation also found that Ms. Fortson's superiors were aware of her involvement in Ms. Jackson's civil matter and approved Ms. Fortson's reimbursement requests.

The allegation of use of City funds for payment of bail in Ms. Jackson's case was not supported by the evidence. Prior use of City funds for payment of bail was supported

by the findings. Evidence of supervisor knowledge and consent of such payments was also found.

Therefore, while some of the concerns raised by the complaint are shared by the investigator, a conclusion of violation of the City's Code of Ethics by Ms. Fortson cannot be made.

ISSUES

1. Did Ms. China Fortson knowingly use her official City position to benefit Ms. Keisha Jackson in a manner not consistent with her position as a Domestic Violence Advocate?

2. Did China Fortson use City funds to post bail for criminal defendants and/or to benefit Ms. Keisha Jackson?

RELEVANT STANDARD

City of Tacoma, Code of Ethics, Section 1.46.030, provides in pertinent part:

H. Improper Use of Position Prohibited. No City official shall knowingly use his or her office or position to secure personal benefit, gain or profit, or use his or her position to secure special privileges or exceptions for himself, herself, or for the benefit, gain, or profits of any other persons.

J. Improper Use of City Property Prohibited. No City official shall use City-owned vehicles, equipment, materials, money, or property for personal or private convenience or profit. Use is restricted to such services as are available to the public generally, for the authorized conduct of official business, and for such purposes and under such conditions as are approved by administrative order of the City Manager or Director of Public Utilities . . .

INTERVIEWS CONDUCTED AND DOCUMENTS REVIEWED

A. Interviews, in-person and/or telephonic, with the following individuals:

1. Mr. Grant Blinn, Deputy Prosecutor, Pierce County;
2. Mr. Kelvin Jackson, Ex-Husband of Keisha Jackson;
3. Mr. John Briehl, HR/HS Director;
4. Ms. Jacqueline Strong-Moss, HR/HS Manager;
5. Ms. China Fortson, HR/HS Victim Advocate

B. Review of the following documents:

1. Tacoma's Code of Ethics, specifically, Tacoma Municipal Code 1.46.030 (H) and (J). (*Please see attached as Exhibit "1."*)

2. *Received from the City of Tacoma Finance Department:* Ms. Fortson's Expense Reimbursement Requests for the years 2005, 2006, and 2007. (Reimbursement requests for 2008 were requested, but not available for review).
3. *Received from Mr. Grant Blinn:* Numerous emails, correspondence, and court pleadings re: Keisha Jackson's Pierce County felony case, Florida civil matter, and Ms. Fortson's involvement with both.
4. *Received from Ms. Jacqueline Strong-Moss:* U.S. Department of Justice, Justice Assistance Grant ("JAG") received by the City of Tacoma, HR/HS Domestic Violence Program; an interoffice memo from Ms. Fortson in response to Ms. Strong-Moss' request for information re Keisha Jackson, dated May 5, 2008; and email correspondence, dated May 22, 2008, from Mr. Kelvin Jackson to Ms. Strong-Moss re: his concern with Ms. Fortson's continued involvement in his domestic matters and her role in Keisha's criminal matter.
5. *Received from Ms. China Fortson:* Ms. Jackson's Intake Forms from the Family Justice Center ("FJC"); DSHS Children's Administration Safety Plan for Keisha Jackson's niece, Chendre; Memo dated November 28, 2006, from Ms. Fortson to the Guardian Ad Litem ("GAL"), Kelly LaBlanc, in the Jackson v. Jackson civil matter; receipt dated May 22, 2006, for \$175.00 payable to Affordable Bail Bonds for defendant Lorraine Franklin.
6. *Received from Mr. Kelvin Jackson:* GAL Report of Kelly Theriot LaBlanc, dated April 20, 2007.
7. *Received from Ms. Susan Brown, Admin. Asst. to Mr. Briehl:* China Fortson's Position Description Form and the job descriptions for Domestic Violence Project Specialist and Victim Advocate.
8. *Received from City of Tacoma Purchasing Department:* Transaction Detail Reports for City Purchase Visa Card xxxxxxxxxxxx5142 and xxxxxxxxxxxx7385.
9. *Received from City of Tacoma Municipal Court:* Traffic Infraction Nos. Q0031952 and Q00468615 issued to Washington License Plate 292VEG.

RELEVANT BACKGROUND

On July 29, 2005, Ms. Keisha Jackson filed pro se in Pierce County Superior Court for a legal separation from her husband Mr. Kelvin Jackson and noted a motion for default to be heard on August 17, 2005. Documents filed and pertinent to this investigation include: a Petition for Legal Separation, Proposed Parenting Plan, and an

Ex-Parte Restraining Order to Show Cause, attached herein as *Exhibit "2."* In her Petition, Ms. Jackson requested a restraining order against Mr. Jackson be entered, but documented that a "domestic violence protection order" was not necessary.¹

On August 17, 2005, the court ruled that service upon Mr. Jackson was insufficient and required Ms. Jackson to re-note her motion and re-serve Mr. Jackson. (*Please see attached as Exhibit "3."*) Even though a return of service was never filed indicating Mr. Jackson was furnished notice of Ms. Jackson's motion, on September 16, 2005, Pierce County Superior Court Commissioner Edward Haarmann granted Ms. Jackson's request and entered, amongst other pleadings, a Decree of Legal Separation, Findings of Fact, and an Order of Default. (*Please see attached as Exhibit "4."*)

On February 9, 2006, Kelvin Jackson filed a motion to vacate the pleadings entered on September 16, 2005. (*Please see attached as Exhibit "5."*) In July 2006, The Honorable Kitty-Ann Van Doornick entered an Order Setting Aside the Default and Vacating the Final Papers and also an Order granting Mr. Jackson liberal unsupervised visitation with this children. (*Please see attached as Exhibit "6."*) A Status Conference was scheduled for August 15, 2006, and trial was set for November 13, 2006.

On August 4, 2006, Ms. Keisha Jackson made what appears to be her initial visit to the FJC and stated the reason for her visit was to speak with someone regarding domestic violence (including the detective assigned to her case²) and other issues involving custody/visitation, military resources, her emotional well-being, spiritual support, etc. (*Please see attached as Exhibit "7" Ms. Jackson's FJC Client Intake packet.*) On this date, Ms. Jackson met with both Ms. Deloris Harris, advocate of Our Sister's House, and Ms. China Fortson, advocate for the City of Tacoma. Their respective comments regarding the visit are documented in the FJC Case Log as follows:

(*Ms. Harris*) "Client came in to talk about husband and his lies and how the judge overturn (*sic*) her case – China came in to help and to contact lawyer for her to help with her case – we talked and encourage (*sic*) her to keep her faith and it

¹ In paragraph 1.11 and 1.16 of her Petition for Legal Separation, Ms. Jackson requested a continuing restraining order be entered against Mr. Jackson. In paragraph 1.16 of the same document Ms. Jackson elaborated that Mr. Jackson had "abandoned his family financially and emotionally" and that he was "unreliable and not responsible." Nowhere in this document is domestic violence alleged to have occurred and specifically in paragraph 1.12 and in paragraph 1.16, Ms. Jackson indicated a domestic violence protection order was not warranted. In Ms. Jackson's proposed Parenting Plan, paragraph 2.1 and 2.2, she requested the father's residential time with the children be limited because of "willful abandonment and emotional abuse", but specifically crossed out the standard language indicating physical or sexual abuse was an issue.

² By requesting to speak with the detective assigned to her case, Ms. Jackson gives the impression that she has a criminal domestic violence matter already pending. However, as thoroughly illustrated below in Footnote 5, Mr. Kelvin Jackson, the alleged abuser, has no documented domestic violence history.

will turn out for the best." (Ms. Fortson) "Spoke with client about issues around husband and children. Ref to counselor."³

SUMMARY OF INTERVIEWS

Statement of Mr. Grant Blinn:

On May 22, 2008, I met with Mr. Grant Blinn, Pierce County Deputy Prosecuting Attorney. Mr. Blinn told me that he was concerned with recent interactions he had experienced with Ms. China Fortson regarding Ms. Jackson, a criminal defendant charged with Custodial Interference in the First Degree.

He told me that Ms. Fortson has been assisting Keisha M. Jackson with an ongoing custody battle in Pierce County Superior Court (Case No. 05-3-02569-6). By way of background, Ms. Jackson left the state of Washington with the children and failed to return them pursuant to a Pierce County Superior Court order in September 2007. In an effort to enforce the court order, Mr. Blinn obtained a Writ of Habeas Corpus from Pierce County Superior Court on March 28, 2008, for two of the children involved. A bench warrant was issued and Ms. Jackson was arrested in Florida. Ms. Jackson was booked into the Pierce County Jail on April 19, 2008, for Custodial Interference in the First Degree (Case No. 08-1-01536-1), but bailed out shortly thereafter. (Please see attached as Exhibit "8.") Mr. Blinn said he had reason to believe that Ms. Fortson, in her official capacity as a domestic violence advocate for the City of Tacoma, paid Ms. Jackson's \$2,500 bail bond because Ms. Strong-Moss told him that Ms. Fortson used "grant" money to post Ms. Jackson's bail and that taxpayer dollars are used on "rare occasions" for such expenses.

In addition to the posting of bail, Mr. Blinn told me that he had serious concerns with Ms. Fortson's misuse of her City position; her lack of professionalism and objectivity in regard to Ms. Jackson's criminal case; and her truthfulness.⁴

He stated that shortly after Ms. Jackson's arrest, he was contacted by Ms. Fortson. Ms. Fortson informed Mr. Blinn that she was a victim advocate for the City of Tacoma and provided information that Ms. Jackson's ex-husband, Kelvin Jackson, had an extensive history of domestic violence and abusive behavior toward Ms. Jackson and others.⁵ While Mr. Blinn appreciated receiving any relevant background information

³ Neither advocate documented any concerns for Ms. Jackson and/or her children's safety in the FJC notes.

⁴ This investigator did not address concerns re: professionalism and addressed misuse of position and truthfulness only as they bear on prohibited conduct as set forth in TMC 1.46.030.

⁵ To date this investigator has been unable to locate any documentation, aside from Ms. Jackson's and Ms. Fortson's allegations, that support their claim of Mr. Jackson's domestic violence past. I performed a name search on the Washington Courts website for Mr. Kelvin Jackson and no cases of domestic violence were noted. I reviewed the Pierce County LINX database and determined that Ms. Keisha Jackson has never petitioned for a Protective Order through Pierce County Superior Court. I contacted

from Ms. Fortson, he stated that she neither presented herself objectively nor professionally from the tone and manner in which she relayed the information. Mr. Blinn reminded Ms. Fortson that he was not representing Mr. Jackson, nor was it his place to apportion blame, but that he had charged Ms. Jackson with a crime because she withheld visitation in violation of a court order.

Subsequent to Ms. Fortson's telephone call, Mr. Blinn received information from Mr. Jackson that Ms. Fortson and Ms. Jackson shared a personal relationship and that his daughter, Quiymani, (one of the children Ms. Jackson took to Florida) had actually participated in Ms. Fortson's wedding in the summer of 2007. Additionally, in early May 2008, Mr. Blinn received a call from Sgt. Jeremy Snow of the Santa Rosa County Sheriff's Department in the state of Florida. Sgt. Snow informed Mr. Blinn that Ms. Fortson had called him and attempted to "manipulate" law enforcement officials to enact an AMBER alert, following Mr. Jackson's attempt to return his children to Washington. Mr. Blinn told me that he briefed Sgt. Snow on the history of the Jackson custody case and that both he and Sgt. Jackson felt an AMBER alert was not justified and that Ms. Fortson was being manipulative.

More recently, Mr. Blinn was contacted by Ms. Jacqueline Strong-Moss, HR/HS Manager for the City of Tacoma, who told him that Mr. Jackson had filed a complaint against Ms. Fortson for her involvement with his civil matter. Mr. Blinn advised Ms. Strong-Moss that he did not represent Mr. Jackson, nor did he vouch for his character, but that he was seriously concerned with Ms. Fortson's use of her official position. He told Ms. Strong-Moss that Ms. Fortson had contacted him in her official capacity and had failed to disclose that she shared a personal relationship with Ms. Jackson. He felt this was inappropriate and undermined the sense of trust he should have in a professional within the criminal justice system.

Statement of Mr. Kelvin Jackson:

I spoke with Mr. Kelvin Jackson on May 22, 2008. He told me that on several occasions he has written to the City of Tacoma HR/HS Department regarding Ms. Fortson's involvement in his civil custody case and requested she be removed from his case or that restraints on her participation be imposed. (*See attached as Exhibit "9" email correspondence from Mr. Kelvin Jackson to Mr. Charles Leech, former HR/HS Manager and Ms. Strong-Moss, HR/HS Manager.*) To date, he has not received a response to his inquiries and questions why a domestic violence advocate, especially one from the City of Tacoma, has been involved with his family's civil matter when no

Lt. Fred Scruggs of the Tacoma Police Department. Lt. Scruggs conducted a search of all Pierce County and Tacoma police reports since 1999, and advised me that his search failed to return any reports of domestic violence for Mr. Kelvin Jackson. Mr. Blinn provided me with email correspondence from Det. Tamera Pihl of the Puyallup Police Department which indicated Puyallup's reporting system did not contain any domestic violence reports for Mr. Kelvin Jackson even though it was Ms. Fortson that told Mr. Blinn that reports of domestic violence involving Mr. Jackson existed. Moreover, in June 2007, the Honorable Susan K. Serko determined at trial that no domestic violence issues existed in the matter of Keisha and Kelvin Jackson's Pierce County Superior Court Case No. 05-3-02569-6.

incident of domestic violence has ever existed and Ms. Jackson and the children have never resided in Tacoma.

Mr. Jackson told me that he believes he and his family have been harassed by Ms. Fortson and that her contentious behavior towards him has had a detrimental effect on the relationship he shares with his daughter, Quiymani, and his son, Kelvin Jr. Mr. Jackson stated, "Prior to China's involvement our child exchanges were never confrontational; however, since China appointed herself to attend every child exchange, court hearing, etc., our family relationships have deteriorated. I really feel that it would be beneficial for our family if China was not involved."

Mr. Jackson told me that even Kelly Theriot LeBlanc, the court-appointed GAL in the Jackson custody dispute, voiced concerns with Ms. Fortson's involvement with this matter. A relevant verbatim excerpt (*attached as Exhibit "10"*) from Ms. LeBlanc's Confidential Guardian Ad Litem report, beginning on page 10, line 13, states as follows:

At 2:53 p.m. on Thursday, February 15, 2007, the day following my unannounced interviews with the children, I received a telephone message from Quiymani Jackson. The message, which I saved on my telephone voice mail, is significant for the following reasons:

The telephone call was done with the assistance of an adult, whose voice can be heard at the beginning of the recording saying: "Okay, talk." Based upon my previous contacts in this case, I believed that the adult voice was China Fortson. In a subsequent conversation with Ms. Fortson, she acknowledged that she did, in fact, assist with the call made by Quiymani.

During the recorded message, Quiymani said, "Hi, um, this is Quiymani and I forgot to tell you something. I forgot to tell you that my dad, well, uh, wait, uh, hold on, okay, that my dad he um, he, he's nice to me and takes me places when people are watching and he's mean to me when people are not and he tells me and my sister that we don't mean anything to him and so, can you please, (deep sigh) um, well, uh, can you call us, uh, can you call me, uh, I don't know."

. . . Quiymani Jackson should have been in school on Thursday, February 15, 2007, when the message was left on my answering machine. Instead Quiymaini was apparently at the office of the Human Rights Department with her mother and China Fortson.

I cannot help but note the similarity between the things Quiymani "forgot to tell me" and the factual averments in declarations prepared on behalf of Ms. Jackson. I found it particularly significant that Quiymani first referred to a plural pronoun "us" when asking me to return the call and then became totally flustered before ending her message with "I don't know."

In listening to the message, it appeared to me that the message was scripted as opposed to a natural request and desire for response.

Statement of Mr. John Briehl:

I met with Mr. John Briehl on May 23, 2008. Mr. Briehl is a long-time employee of the City of Tacoma (34 years) and is the Director of the HR/HS Department. Mr. Briehl told me that the duties of a domestic violence advocate should always focus on the victim's safety and that making a safe future for themselves and their family was the department's top priority. When I asked him to describe the duties of an advocate, Mr. Briehl replied, "Those duties include meeting with the victim and assisting them through the legal process; assessing a victim's needs and providing community resources and/or referrals to assist the victims; and working on a safety plan. Additionally, advocates may look for shelter, facilitate with social services, daycare, food, clothing, etc., so that victims can maintain their independence.

After Mr. Briehl provided a generalized view of an advocate's duties, I asked him if it was common practice for City of Tacoma employees to get involved with alleged domestic violence victims that are not Tacoma residents. Mr. Briehl replied, "The world of domestic violence does not know limits and therefore we provide reciprocity between jurisdictions. The City tries to limit their domestic violence advocacy services to residents only; however, sometimes we need to offer our services to non-residents."

I asked what if any documentation, proof, validation, etc. was needed before an advocate assisted with a case. Mr. Briehl said, "The victim has to present to the City that they are in fear of their abuser. They need to voice a concern that they are fearful of their safety or their children's safety." He went on to say, "Criminal charges do not have to be filed as a condition to receiving services. We provide a wide-open door; otherwise, it would discourage victims from seeking help."

I inquired about an advocate's role in attending court hearings and child visitation exchanges and if it was a common practice. Mr. Briehl stated, "It is not common for an advocate to assist with exchanges, but it is not precluded. There has to be a nexus between a domestic violence situation and our involvement in a case – we have to be able to draw a connection between the two." Mr. Briehl went on to say, "If a victim is fearful, the practice of providing supervision at exchanges could continue for a number of years." Mr. Briehl then told me that he was aware of China's involvement with the Jackson matter as they had discussed such back in 2006/2007. He also knew that Ms. Fortson had ongoing contact with Ms. Jackson and had attended her court hearings and child exchanges.

When asked, what City paid costs are considered legitimate in regard to victim assistance, Mr. Briehl responded, "The City has a "service fund" that is used for emergency needs, e.g., first month's rent, food, diapers, getting set up in a household, receiving a bus ticket to get out of town, etc." He then told me that a "list of acceptable expenses" existed in the department. I asked to see the list; however, Mr. Briehl told

me that Ms. Fortson had it. When I asked him if he would provide me with a copy, he replied, "No, you will have to get it from China." I then told him that I would prefer not to ask Ms. Fortson for the document and again requested he provide me a copy, he refused, stating, "I would prefer not to give you a copy." (To date have not received a copy of the "list" from anyone in the HR/HS Department.)

Following that tense exchange, I inquired about specific expenses Ms. Fortson had paid for Ms. Jackson in the Jackson custody dispute, e.g., purchase of a cellular phone along with the phone activation fee and phone minutes for court-ordered telephone contact with Mr. Jackson (the alleged offender), GAL fees, attorney fees, posting of bail, etc. Mr. Briehl told me, "It is not the City's practice to pay for those types of items in non-domestic violence matters; however, the City has "engaged in providing those types of funds in domestic violence-related matters."

When I asked Mr. Briehl if he was aware of whether the City paid the above fees in the Jackson dispute, he responded, "The bail was not paid with City money. The bail for Ms. Jackson was paid with funding outside of the City. A small group of individuals, a consortium of women, fund these sorts of things and there are no City policies that would preclude China from using outside sources."

In response to my inquiries regarding Mr. Jackson's multiple unanswered requests for information to the HR/HS department regarding Ms. Fortson's involvement in his family's civil matter, Mr. Briehl told me that he was aware Mr. Jackson's requests went unanswered and commented that his department should have responded according to proper protocol.

Statement of Ms. Jacqueline Strong-Moss:

I met with Jacqueline Strong-Moss on May 23, 2008. Ms. Strong-Moss told me that she was hired by the City of Tacoma on February 19, 2008, and is the HR/HS Manager. She said she originally became aware of Ms. Fortson's involvement in the Jackson matter when she was contacted by Mr. Kelvin Jackson. Mr. Jackson told Ms. Strong-Moss that he had serious concerns with Ms. Fortson's involvement in his civil case and felt Ms. Fortson was exceeding the boundaries of her position as a domestic violence advocate for the City of Tacoma.

Ms. Strong-Moss told me she then had a conversation with Mr. Blinn of the Pierce County Prosecuting Attorney's Office. Mr. Blinn shared the concerns he had with Ms. Fortson's non-disclosure of her personal friendship with Ms. Jackson and her paying of Ms. Jackson's bail with taxpayer funds. Ms. Strong-Moss affirmed to me that she told Mr. Blinn the City has posted bail in situations such as this in the past, but that she would monitor Ms. Fortson's actions so that she did not exceed her assigned scope of duties.⁶

⁶ Ms. Strong-Moss told me that she had reviewed the U.S. Department of Justice, Justice Assistance Grant ("JAG"), the Bureau of Justice Assistance Program Evaluation, the City of Tacoma's Memorandum for Criminal Justice Grant Distribution, and believed, according to their contents, that the use of federal

Ms. Strong-Moss then requested Ms. Fortson prepare a timeline of her involvement in the Jackson custody dispute (*attached as Exhibit "12"*) and asked Ms. Fortson if she had paid Ms. Jackson's bail or if she had ever paid bail for other clients in the past. According to Ms. Strong-Moss, Ms. Fortson affirmed she paid Ms. Jackson's bail, but not with City funds. The bail was paid through a consortium of women to which Ms. Fortson belongs. This consortium provides funding to assist victims of domestic violence. Regarding whether Ms. Fortson had ever paid another client's bail in the past, Ms. Strong-Moss told me, "Yes, she did on one other occasion, but she had permission and she used a City credit card."⁷ (*Please see attached as Exhibit "13" Affordable Bail Bonds Receipt for \$175.00.*) I asked Ms. Strong-Moss if permission was given to Ms. Fortson prior to posting Ms. Jackson's bail. Ms. Strong-Moss acknowledged that Ms. Fortson did not request approval from the City prior to posting bail for Ms. Jackson, but told me Ms. Fortson had reassured her that an agreement had been reached in the past between Ms. Fortson, Mr. John Briehl, and Mr. Charles Leech, that City funds could be used to post bail in domestic violence situations.

Statement of Ms. China Fortson:

I met with China Fortson on May 28, 2008. Ms. Fortson told me she is a Domestic Violence Advocate Project Specialist and has worked for the City of Tacoma since 1998.

She said she met Ms. Jackson at the FJC when Delores, an advocate from Our Sister's House, requested Ms. Fortson assist because "issues above Delores' expertise" were involved. I inquired why, if Ms. Jackson was not a resident of Tacoma, would an employee of the City of Tacoma assist her. Ms. Fortson assured me that Ms. Jackson was a Tacoma resident when she initially visited the FJC. (*Attached as Exhibit "7" FJC Intake Sheet indicates Ms. Jackson resided outside the City limits on August 4, 2006.*) When I asked Ms. Fortson what services were provided for Ms. Jackson, Ms. Fortson replied, "I worked with Ms. Jackson to find counseling for the children, I referred her to, I believe it was, Youth Arc, I located resources for Ms. Jackson's disabled child, and I suggested Ms. Jackson seek counseling for herself since she was a disabled veteran."⁸

grant money to post bail for defendants charged with felony offenses to be proper. Ms. Strong-Moss presented me with the documentation she had reviewed which is attached herein as Exhibit "11."

⁷ This bail bond in the amount of \$175.00 was paid for a Ms. Tracy Conklin for a criminal misdemeanor Driving While License Suspended charge. I received two copies of this document, one from Ms. Fortson and one from the Finance Department. On the copy provided by Ms. Fortson the "DWLS" notation had been whitened-out.

⁸ According to Mr. Briehl, the top priority of his domestic violence advocacy program is to focus on the safety of the victim and their family. At no time during my interview with Ms. Fortson did she tell me she assisted Ms. Jackson in developing a safety plan. Also, the advocate notes in the FJC Intake Form for Ms. Jackson, (*Exhibit 7*) are silent in regard to victim safety, but do comport that counseling was suggested.

I then asked Ms. Fortson about her work duties. I inquired if the Job Position Description Form she completed at the beginning of the year accurately described her duties. (*Please see attached as Exhibit "14" Ms. Fortson's Job Position Description.*) She responded, "Yes," then immediately interjected, "Nothing has been done for Ms. Jackson that has not been done for any other client." I then asked her about an advocate's role in child exchanges, noting there was no mention of such in her job description. She told me, "This practice is quite common. Judges ask us to assist with exchanges in divorce and paternity proceedings all the time."⁹ When I asked if a judge had appointed her to be involved with Ms. Jackson's custody exchanges, Mr. Fortson replied, "No, CPS put me in a safety plan – as a go-between. They asked me to be part of the safety plan, to be a neutral party, another set of eyes."¹⁰

I then asked Ms. Fortson when and where child exchanges took place. She told me, "Various locations, mostly at McDonalds on 9th by the courthouse or the McDonalds on 38th in Tacoma, or sometimes at my office." When I asked if the exchanges occurred during regular business hours, she answered, "Yes, and sometimes they occur on the weekends. When that happens, I meet the parties down here at the Municipal Building."¹¹

I asked Ms. Fortson about her relationship with Ms. Jackson and inquired if it was of a personal or professional nature. Mr. Fortson replied, "I keep all my clients within a professional relationship. Keisha is not my personal friend; I only have a professional relationship with her." I then told her that I have been advised that the Jackson's youngest daughter Quiymani (one of the children subject to the exchanges) had been a participant in her (Ms. Fortson's) wedding and asked if that information was correct. Ms. Fortson told me, "Yes, Quiymani helped pass things out at my wedding." I then asked her how that came to be and she said, "At one of the child exchanges, I was looking at bridal photos, Quiymani saw them and asked me if I was getting married. I told her yes, and Quiymani asked me if she could be in my wedding." Ms. Fortson then

⁹ When asked the same question of Mr. Briehl, his response was quite the opposite. He stated, "It is not common for an advocate to assist with exchanges, but it is not precluded."

¹⁰ I asked Ms. Fortson for the name of the CPS worker who requested she provide this service. She told me she did not remember her name. Attached (as Exhibit "15") is the DSHS Children's Administration Safety Plan given to me by Ms. Fortson. On careful review, it is apparent that this Safety Plan has nothing to do with Mr. Kelvin Jackson or the need to ensure safe child exchanges in the Jackson custody dispute. This Safety plan involves Ms. Keisha Jackson's disabled niece, Chendre. (Chendre is Ms. Jackson's sister's child, but Ms. Jackson cared for her. Chendre is not Mr. Jackson's child and does not participate in the child exchanges.) This Safety Plan was imposed by CPS upon Ms. Keisha Jackson to ensure Chendre's safety while in the custody of Ms. Jackson. The Safety Plan details the specific duties various agencies will offer to ensure Chendre's safety, e.g., "Come into home and cook with mother assessing needs of Chendre and report any concerns." "Assist mother with Chendre's mental/physical/emotional development and report any concerns." "To ensure safety and report any concerns for Chendre's safety to CPS." Further, this safety plan makes no reference to Ms. Fortson in any capacity.

¹¹ (Exhibit "16" shows Ms. Jackson requested and was reimbursed by the City of Tacoma \$339.50 for travel to and from the McDonald's in Puyallup for Ms. Jackson's child exchanges between January 2007 and August 2007.

told me, "The reason I said yes to Quiymani was basically to bribe her to go on visitation with her father. At times it has been very difficult to get Quiymani to go on visitation, so Mr. Charles Schmidt (Keisha's attorney) and I would bribe her with small gifts if she would go without a fuss. At one time Quiymani was throwing such a fuss, I asked her what it would take to get her to stop fussing. Quiymani said, 'A turtle.' So, Mr. Schmidt bought the fish bowl and I bought the turtle and gave it to Quiymani after her visitation. I have given other small gifts to Quiymani on occasion, such as a CD she had requested."

I then changed the subject of child exchanges and asked Ms. Fortson about acceptable costs and fees the City allows when providing services to domestic violence victims. I asked her if there was a monetary ceiling for which the City limits its contribution. Ms. Fortson told me, "The City's limit is normally \$250 per case, but in some rare instances, such as a victim with a large family, that limit can be raised to \$350." I then went through a list of expenses Ms. Fortson had paid in the Jackson matter (court costs, attorney fees, cell phone, bail, etc) and asked if this was a common practice with other cases. Ms. Fortson reiterated, "Nothing has been done for Ms. Jackson that hasn't been done for other clients." I then asked her if her answer constituted a "yes" and she stated it did.

In regard to the posting of Ms. Jackson's \$2,500.00 bail bond for the felony charge of Custodial Interference First Degree, Ms. Fortson told me that the City did not pay that cost. Ms. Fortson stated that she is part of a consortium of women that set aside their own personal funds to help victims of domestic violence. The consortium has an account set up at Tapco Credit Union for this purpose. She told me that while she was in court with Ms. Jackson on her felony case, Ms. Jackson's attorney asked Ms. Fortson if she could come up with bail in the amount of \$250.00. Ms. Fortson said she then contacted her friends in this consortium and they assured her that covering Ms. Jackson's bail was acceptable with funds from their Tapco account. Ms. Jackson showed me a copy of her Tapco Credit Union receipt for \$250.00 and I noted that only Ms. Fortson's name was on the account. When I asked about this she told me that only she and her daughter can sign on the account, but assured me that it was an account held by the consortium.

Regarding the purchase of a cellular phone and cellular minutes for Ms. Jackson, Ms. Fortson told me that in high-risk situations the City will provide cellular phones for victims. I asked her if Ms. Jackson was considered a high-risk victim, and Ms. Fortson said, "Yes, Keisha is considered a high-risk victim at this time." Ms. Fortson told me, "The court ordered Ms. Jackson to purchase a prepaid cell phone so the children could contact their father. Since the 911 emergency phones we have in HR/HS for clients would not work, I went to Target and purchased one of those disposable T-Mobile phones." I asked Ms. Fortson the cost of the phone. She said, "The phone only cost \$19.99 and Keisha paid for the minutes." I asked her if an activation fee was paid and Ms. Fortson told me, "No, the activation was free, it was part of the phone cost; the City did not pay for the activation." I asked Ms. Fortson again if she was sure Ms. Jackson

had paid for the minutes and that the City did not pay an activation fee. Ms. Fortson answered, "That is correct."¹²

In regard to attorney fees, service of process fees, and GAL fees, Ms. Fortson told me that those are common fees the City will cover in domestic violence matters.¹³ In regard to Ms. Jackson's custody dispute, Ms. Fortson told me that Ms. Jackson hired an attorney, Mr. Schmidt, to represent her in her legal separation. Ms. Fortson told me that the City paid \$250.00 to Mr. Schmidt for filing and service of process fees. I asked about the attorney fees for Tracy Flood, Ms. Jackson's criminal defense attorney, and told Ms. Fortson that I had been informed the City of Tacoma was also paying those fees. Ms. Fortson told me that she had referred Ms. Jackson's felony matter to another agency for assistance. She said, "I contacted the Office of Crime Victim's Advocacy – Violence Against Women Program, and they agreed to cover Ms. Jackson's attorney fees of \$1,500.00."

REVIEW OF DOCUMENTS

Following my interview with Ms. Fortson, I received from the City of Tacoma Finance Department, Ms. Fortson's Expense Reimbursement Requests for the years 2005, 2006, and 2007. Although I requested Reimbursement Requests for 2008, none were available for my viewing. I also received from the City of Tacoma Purchasing Department, Ms. Fortson's Transaction Detail Reports for City Purchase Cards ending in 5142 and 7385. While reviewing these documents a couple of concerns were noted.

My first concern involved Ms. Fortson's use of City funds to pay Tacoma Municipal Court \$250.00 toward parking tickets and/or traffic fines, including late payment penalties, issued to vehicle license number 292VEG. The registered owner of this vehicle is a Mr. Steven Kevin Washington, address 2361 S. Ferry St., Tacoma, WA 98405. Public records maintained by the Pierce County Auditor's Office indicates Ms. Fortson is married to Mr. Washington.¹⁴ While the investigation did not indicate any link

¹² (Please see attached as Exhibit "17" Ms. Fortson's declaration stating she paid for Ms. Jackson's court ordered phone and minutes. Also included is the T-Mobile forms for activation of minutes along with the Target receipt in the amount of \$67.98 for the cellular phone and the activation fee charged to the City of Tacoma Purchase Visa Card assigned to Ms. Fortson. Attached as Exhibit "18" is the City of Tacoma's Transaction Detail Report for Ms. Fortson's Purchase Card ending in 7385 which indicates the purchase of the T-Mobile phone on 11/29/06 for \$67.98 and the repurchase of cellular minutes on 11/29/06 (\$54.40), 01/25/07 (\$54.40), and 05/22/07 (\$54.40).

¹³ Attached as Exhibit "19" is a Legal Process Service Invoice in the amount of \$120.05, that inadvertently was delivered to the City of Tacoma Legal Department instead of HR/HS, which shows Ms. Fortson used ABC Legal Services to serve documents upon Mr. Jackson on June 2, 2008, that were related to Ms. Jackson's criminal charges and child custody issues, not domestic violence issues.

¹⁴ Please see attached as Exhibit "20" Tacoma Transaction Detail for G.C. Fortson which details the \$90.00 charge along with the two infractions, Q00319522 and Q00468615, which correspond to this charge. Also, please see Exhibit "21" Travel Expense Statement for Gloria C. Fortson dated November 15, 2007, including Tacoma Municipal Court Receipts dated 3/23/07 (\$60.00), 5/23/07 (\$45.00), 6/6/07 (\$25.00), and 7/30/07 (\$30.00).

between the payment of these fines and Ms. Jackson, the investigator is noting this finding because the breadth of the allegation includes use of public funds for personal benefit.

My second and foremost concern is the evidence that tends to substantiate that Ms. Fortson assisted Ms. Jackson in violating a valid court order. In August 2007, Ms. Jackson moved the court to allow her and her children to "visit her ailing father" in the state of Florida. Information from one witness interview places Ms. Fortson in court with Ms. Jackson at the time of this request and the Court's order. This fact could not be corroborated. Pierce County Superior Court Judge Susan K. Serko granted the motion with the stipulation that Ms. Jackson return the children to Washington State no later than September 3, 2007. *(Please see attached as Exhibit "22" Pierce County Superior Court Order dated August 13, 2007.)* Reimbursement documents received from the Finance Department show that Ms. Fortson rented a vehicle on September 6, 2007, from Budget Rent-A-Car for Ms. Jackson to travel to Florida for the purpose of "victim relocation." This was 3 days after the court ordered Ms. Jackson to have her children returned to Washington. At the time of the investigation, Ms. Jackson was facing charges of two counts of Custodial Interference in the First Degree, a Class C Felony, due to her taking the children from Washington in violation of Mr. Jackson's visitation rights, and her failing to return her children to Washington State from the state of Florida. *(Please see attached as Exhibit "21" Travel Expense Statement for Gloria C. Fortson dated November 15, 2007, and Budget Rent-A-Car Agreement No. 256080704, dated September 6, 2007, signed by G. China Fortson and Budget's Additional Driver Application/Agreement signed by Keisha Jackson and G. China Fortson.)*

FINDINGS

1. Ms. China Fortson is a Domestic Violence Advocate employed in the HR/HS Department of the City of Tacoma.
2. Ms. Jacqueline Strong-Moss is Ms. Fortson's immediate supervisor and Mr. John Briehl is the Director of HR/HS.
3. Ms. Keisha Jackson is a self-reported victim of domestic violence who met Ms. Fortson in August 2006, when she visited the FJC requesting assistance.
4. Mr. Kelvin Jackson is the ex-husband of Ms. Jackson and the father of Quiymani and Kelvin Jr. (the children who are the subject of the Jackson custody dispute).
5. Ms. Jackson was granted an ex-parte legal separation in September 2005, which was vacated in July 2006.

6. Aside from statements made by Ms. Jackson and Ms. Fortson, there exists no evidence to substantiate the allegations of domestic violence issues between Ms. Keisha Jackson and Mr. Kelvin Jackson.

7. Evidence fails to substantiate that domestic violence issues regarding Mr. Jackson ever existed and further indicates Ms. Jackson's representations of such as self-serving in the context of a custody dispute. Accordingly, a clear nexus between domestic violence issues and Ms. Fortson's substantial level of involvement in Ms. Jackson's custodial issues was not found to exist.

8. In September 2007, Ms. Jackson failed to return her children to the state of Washington in violation of a Pierce County Superior Court order. Ms. Jackson was charged with two counts of Custodial Interference in the First Degree which is a Class C felony.

9. Evidence supports a finding that Ms. Fortson assisted Ms. Jackson in leaving the state of Washington with her children in direct violation of a court order.

10. Evidence is inconclusive as to whether Ms. Fortson was aware of the Court's order at the time that she aided Ms. Jackson in leaving the state. Further interviews to assist in making this finding have been placed on hold due to Ms. Fortson's leave of absence. However, evidence supports a finding that Ms. Fortson had substantial involvement with the parties' Washington State Court proceedings and should have known the legal status of Mr. Jackson and the children.

11. Evidence supports a finding that Ms. Fortson intervened to prevent Mr. Jackson from returning his children to his lawful custody in Washington State.

12. Evidence is inconclusive as to whether Ms. Fortson knew that Mr. Jackson's actions to return the children to Washington State were lawful. Further interviews to assist in making this finding have been placed on hold due to Ms. Fortson's leave of absence. The evidence supports a finding that Ms. Fortson had substantial involvement with the parties' Washington State Court proceedings and should have known the legal status of Mr. Jackson and the children.

13. Ms. Fortson made unsubstantiated statements regarding Mr. Jackson and his alleged extensive domestic violence history in Pierce County Superior Court documents, to Pierce County Prosecutor Blinn, and to law enforcement officials in the state of Washington and in the state of Florida (AMBER Alert).

14. Evidence failed to establish the allegation that Ms. Fortson used City funds to post bail for Ms. Jackson (Ms. Fortson paid Ms. Jackson's bail bond using a Tapco Credit Union account.) However, evidence confirms Ms. Fortson used City funds in the past to: (1) post bail for criminal defendant(s) (*Exhibit "13"*) in situations unrelated to domestic violence; (2) pay traffic fines to Tacoma Municipal Court (*Exhibit "20" and "21"*); and (3) provide financial assistance to Ms. Jackson in excess of the HR/HS

Department's limit of \$250 - \$350. (Please see attached as Exhibit "23" Summary of costs paid by Ms. Fortson.)

15. Mr. Briehl and Ms. Strong-Moss were aware of Ms. Fortson's actions and expenses in regard to the Jackson custody dispute and other matters. Mr. Briehl approved by signature, Ms. Fortson's Requests for Reimbursement for the years 2006 and 2007.

CONCLUSION

1. A violation of the City of Tacoma Ethics Code based on an improper use of position requires a finding of a knowing use of the position for the benefit or gain of another. In this case, substantial evidence suggests that Ms. Fortson used her position to influence authorities and court proceedings in matters without a clear nexus to domestic violence, thereby acting beyond the scope and authority of her position for the personal benefit of Ms. Jackson. However, the evidence also supports the conclusion that her actions were taken with the knowledge and approval of her supervisors, Ms. Jacqueline Strong-Moss and Mr. John Briehl. In light of this conclusion, and the evidentiary limitations of this investigation, this investigation does not support a conclusion that Ms. Fortson "knowingly" used her position beyond its proper scope.

At such time that additional evidence can be developed that may support or refute Ms. Fortson's actual knowledge of the orders of the Court regarding custodial matters, this investigation should be reopened, as this investigator concludes that the level of supervisory approval did not extend to and would not excuse any knowing misrepresentations to authorities. Moreover, this investigator seriously questions Ms. Fortson's credibility, and in some instances questions whether the responses provided to this investigator were truthful (please see footnotes 10 and 12).

2. Substantial evidence supports the conclusion that City funds were used for personal or private convenience and for matters not sufficiently related to official City business. Specifically, Ms. Fortson used City funds for non-domestic violence related purposes including posting of bail on a non-domestic violence related charge, and payment of traffic fines; Ms. Fortson also used City funds in excess of authorized limits to benefit Ms. Jackson, in violation of the Tacoma Municipal Code, Section 1.46.030 (J). However, the evidence also supports the conclusion that Ms. Fortson's supervisors Jacqueline Strong-Moss and Mr. John Briehl had knowledge of the nature and extent of Ms. Fortson's use of City funds, and that her reimbursement requests for these matters were approved by Mr. Briehl.

Based on the of the vague scope of duties for the position of domestic violence advocate and the nature and extent of supervisory approval in this case, a Reasonable Cause finding that Ms. Fortson violated the City's Code of Ethics is not warranted. However, it is strongly recommended that the job duties for this position be more firmly established, and that a system of checks and balances be implemented to ensure a clear nexus between the use of City Resources and valid City business.