

State of New York  
Office of the Inspector General



Report of Investigation into Allegations of Misconduct  
by State Wildlife Pathologist Ward Stone

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## **I. SUMMARY OF FINDINGS**

The Inspector General's investigation revealed a long record of misconduct by former state employee Ward Stone, beginning early in his employment as a wildlife pathologist at the New York State Department of Environmental Conservation (DEC) and continuing nearly until his retirement from that position some 40 years later. The Inspector General further found that Stone engaged in improper conduct with virtual impunity, as DEC executive management, fearing a negative reaction by Stone's supporters, including the media, thwarted efforts to discipline him.

Persistently and in defiance of directives from his immediate supervisors, Stone misused state resources. For extended periods, Stone used DEC's Wildlife Resource Center as his residence, and repeatedly directed staff to assist him in activities unrelated to his DEC duties. This misuse of state agency staff and resources resulted in unauthorized and improper personal benefits to Stone worth tens of thousands of dollars.

Stone also engaged in abusive treatment of subordinates, creating a difficult work environment, which some employees described as unbearable. For years at a time, Stone failed to comply with even the simplest of rules that apply to all New York State employees by refusing to complete and submit required time and attendance records.

Importantly, in numerous instances, Stone's direct supervisors and other managers at DEC made serious, good-faith efforts to address his misconduct through established disciplinary procedures. At crucial points, however, the efforts of these officials were deliberately thwarted by DEC's executive management, including former DEC Commissioners, who intervened to halt potential disciplinary action against Stone, and sought instead to address his behavior through personal, informal persuasion, which proved unsuccessful. Following one such intervention, in the words of one frustrated manager, "Stone [got] yet another pass on misconduct that any other employee would surely be disciplined or otherwise held accountable for."

The Inspector General recognizes that a succession of DEC administrations seeking to address Stone's conduct were confronted by a particularly difficult, even unique, management problem: an insubordinate employee who was also a public figure championed by environmental groups and the media. Acknowledging that Stone's situation was highly unusual, former DEC Commissioner Alexander "Pete" Grannis agreed that any employee but Stone would have been disciplined for similar misdeeds.

Nonetheless, DEC executive management's unwillingness over a long period to discipline Stone for persistent misconduct represented a management failure. Inevitably, this management failure damaged the morale of staff who viewed Stone, despite his repeated violations of agency rules and blatant insubordination, as immune to discipline.

Stone retired from DEC in September 2010 in order to settle a formal disciplinary proceeding – the first DEC had brought against him since 1990 despite decades of reports of similar misconduct. The Inspector General is referring the findings of this investigation to the New York State Attorney General's Office. The Inspector General previously referred possible violations of the New York State Public Officers Law by Stone to the New York State Commission on Public Integrity (now the Joint Commission on Public Ethics).

## **II. BACKGROUND AND INTRODUCTION**

### **The Department of Environmental Conservation and Its Wildlife Pathology Unit**

The New York State Department of Environmental Conservation was created in 1970 to combine in a single agency all state programs designed to conserve, improve and protect New York's natural resources and environment and to prevent, abate and control water, land and air pollution. DEC's Central Office in Albany is supported by nine regional offices which serve the communities in which they are located. A total of approximately 3,000 DEC staff currently work in the Central Office and regional offices.

DEC's Wildlife Pathology Unit (WPU) is responsible for diagnosing and monitoring causes of sickness and death in New York State's amphibians, reptiles, birds and mammals. The WPU also provides forensic wildlife pathology services to DEC's law enforcement division and other agencies; performs field investigations related to the impact of environmental contamination (oil spills, industrial discharges, pesticide use and misuse, hazardous waste sites and landfills) on wildlife; and conducts original research in the fields of wildlife pathology, physiology and toxicology. The WPU's facilities are housed at the DEC Wildlife Resource Center in a rural area in Delmar, approximately 10 miles from DEC's Central Office.

### **Ward Stone an "Environmental Darling" and "Administrative Pain"**

Stone supervised the DEC Wildlife Pathology Unit for 40 years. After earning bachelor's and master's degrees in zoology from Syracuse University, Stone joined DEC in 1969 as a Senior Wildlife Pathologist and in 1970 became an Associate Wildlife Pathologist, a position he retained until his retirement in September 2010. At the time of his retirement, Stone was paid \$83,954 annually.

During his long tenure as a DEC Wildlife Pathologist, Stone was at the forefront of numerous environmental issues such as polychlorinated biphenyls (PCBs), household and commercial pesticides, and the dangers of mercury releases by manufacturers. He also came to the calls of local community groups in response to the dangers of emissions from the ANSWERS Incinerator Plant, located in Albany; was for decades talking about the presence of lead released into the environment by sport shooters and fishermen; and, most recently, cautioned against the presence of lead in children's toys and novelty items. Throughout this investigation, various witnesses acknowledged these and others of Stone's accomplishments.

Notwithstanding these accomplishments, Stone almost always acted alone, often zealously pursuing matters without the knowledge of his supervisors, and even at times contrary to the directions of his superiors at DEC. Reflecting a widely held view, a

newspaper profile described Stone as both a “darling of environmentalists” and a “loud, throbbing administrative pain.”<sup>1</sup> Emphasizing the latter point, one former DEC Commissioner noted what he felt was Stone’s “disruptive effect” on agency operations.<sup>2</sup> Stone himself appeared to take pleasure in the belief that, due to his public stature and support, DEC did not dare discipline or attempt to control him.

Stone often used the news media as a means to promote his views and express his disagreement with official DEC policy. In fact, for many years, news articles cited Stone as an environmental champion and expert on environmental issues, and often noted his disputes with agency management.

### **Inspector General Receives Further Complaints About Stone’s Conduct**

In April 2010, the Inspector General commenced an investigation of alleged misconduct by Stone. The investigation examined multiple complaints which included allegations that Stone resided at the Wildlife Resource Center, the DEC facility in Delmar where his office and laboratory were located; frequently allowed his young children to spend time with him at the facility; used subordinates to assist him in his outside employment and to drive him and his children on personal business; and numerous other complaints. These latest allegations largely repeated complaints about Stone’s conduct that had been brought to the attention of DEC and the Inspector General on prior occasions, some as early as 2002.

In view of this lengthy history of complaints, the Inspector General also undertook to examine how DEC management had addressed the allegations of misconduct relating to Stone from the commencement of his employment in 1969 to his retirement in 2010. This review included not only the matters referred to DEC by the

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<sup>1</sup> “In a Quiet Wood, a Pathologist Under Siege,” by Jan Hoffman, *New York Times*, July 25, 2000.

<sup>2</sup> Thomas Jorling quoted in the *New York Times*, May 9, 1989.

Inspector General, but also complaints DEC had received from its own staff and other sources as well.<sup>3</sup>

During the course of this investigation, the Inspector General conducted numerous sworn interviews of present and former DEC employees as well as members of DEC's executive staff. The Inspector General also examined DEC records dating as far back as 1974. These records included memoranda between DEC personnel, log books, scientific records, e-mails, reports, Stone's personnel file, counseling memoranda, disciplinary records, records concerning human rights investigations, complaint letters, newspaper articles and other files. The Inspector General also conducted interviews of pertinent civilian witnesses.

### **III. THE INSPECTOR GENERAL'S INVESTIGATION**

#### **Stone Misused State Resources and Abused His Authority**

The Inspector General's investigation revealed that Stone engaged in various acts of misconduct over a long period. He misused state property and resources — valued at tens of thousands of dollars — for personal purposes. He was abusive to subordinates and co-workers, and failed to comply with even the simplest of rules that apply to all state government employees, including the bi-weekly filing of time and attendance records. Further, Stone was insubordinate as he openly and repeatedly defied direct orders issued to him by managers.

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<sup>3</sup> Complaints about Stone's conduct over a long period and DEC's failure to effectively address these complaints were the focus of an article by James Odato in the *Albany Times Union* on May 2, 2010. A second article by Odato and published in the *Times Union* on June 13, 2010, raised additional allegations, specifically that Stone did not timely respond to the advent of West Nile Virus in New York during the summer of 1999. It was alleged that Stone failed to sound the alarm concerning the unknown virus which would have resulted in earlier spraying to kill mosquitoes and possibly prevented human deaths which resulted from the disease. The Inspector General makes no determination regarding this allegation, but instead defers to the report issued by the United States Government Accounting Office (GAO), date September 11, 2000, entitled "West Nile Virus Outbreak - Lessons for Public Health Preparedness."

The Inspector General also found that Stone's direct supervisors and other mid-level managers at DEC repeatedly attempted to address his misconduct through established disciplinary procedures. At crucial points, however, their efforts were thwarted by DEC's executive management, including various former DEC Commissioners, who intervened to halt potential disciplinary action against Stone, and sought instead to address his behavior through personal, informal persuasion, which proved unsuccessful. This apparent impunity, if not outright immunity, from discipline, damaged morale as it generated suspicion among DEC staff that Stone was being protected by his superiors.

### ***1. Stone Lived at the Wildlife Resource Center***

In 2002, the Inspector General's Office received its first complaint about Stone living in his office at the Wildlife Resource Center, and this complaint was referred to DEC as a management issue for the agency to address. In 2008, after further similar complaints, the Inspector General's Office conducted surveillance which established that Stone was in fact residing at the Wildlife Resource Center. In addition to surveillance, staff at the Center reported to the Inspector General that Stone's personal items were stored there, including his children's toys, and he used the Center's washing machine and dryer – machines purchased and used to launder laboratory garments – for his own laundry. Stone used the Center's offices, conference room tables, lockers, garage, and file cabinets to store his personal belongings. His storage of personal belongings throughout the Wildlife Resource Center prevented the proper use of areas of the facility for DEC business.

When confronted with these allegations during this investigation, Stone readily admitted to them. When questioned by the Inspector General as to when he first resided at the Wildlife Resource Center, Stone testified: "That would have been 2001, off and on from then on." By his own admission, he continued to live in the facility until 2009. Stone stated that he did so because he "didn't have a residence"; at times, he also slept outdoors at the Wildlife Resource Center. In all, he testified, he resided at the center

“half to as much as 75 percent” of the time. Stone also admitted that he used the Wildlife Resource Center laundry facilities to clean his personal items.

Significantly, Stone further admitted that he failed to comply with orders by DEC to cease residing at the Center, the first of which he acknowledged receiving in 2001. It was not until 2009, eight years later, according to Stone, that he discontinued residing at the Center.

Through his unauthorized use of the Wildlife Resource Center as a personal residence, Stone misappropriated state resources valued at a minimum of nearly \$29,000.<sup>4</sup>

## ***2. Stone’s Dual Employment***

DEC staff complained to both DEC and the Inspector General that Stone’s paid teaching jobs at SUNY Cobleskill and other institutions interfered with the performance of his duties as Wildlife Pathologist and with the work of administrative and technical staff at the Wildlife Resource Center. According to the complaints, the abuse had continued for at least four years and included Stone’s use of staff to gather Wildlife Pathology Unit materials for use in his classes, and type and copy class study guides, tests, and other documents.

One DEC employee reported to the Inspector General instances when Stone required staff to assist with matters related to Stone’s outside employment as an instructor at SUNY Cobleskill. This DEC employee related that on occasion he was required to type up examinations for Stone, copies of which he provided to the Inspector

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<sup>4</sup> The Inspector General surveyed one bedroom/studio apartment rentals in Albany County advertised in the *Albany Times Union* from 2001 through 2009, the period Stone stated he resided at the Wildlife Resource Center. Based on Stone’s testimony that he stayed at the facility from 50 percent to 75 percent of that period, the Inspector General determined that the value of the improper benefit he received ranged from \$28,887 to \$43,316.

General. According to this employee, Stone also required staff to load and unload into his car teaching specimens from the Wildlife Resource Center. Staff members were also required to destroy carcasses that Stone used in his class.

Similarly, Stone had unit staff drive him – in a state vehicle – to the WAMC radio station in Albany, where Stone hosted and taped his radio show, and wait until he was finished. The DEC employee reported that on many occasions Stone required him to drive Stone to the radio station as well as other locations where Stone conducted activities unrelated to his DEC job. Evidence also revealed that Stone used Wildlife Resource Center telephones, fax machines, and e-mail to communicate with the radio show’s producers and guests, and used Center resources to research topics for use on the show.

In his testimony to the Inspector General, Stone admitted that his conduct violated the terms of his outside employment agreement with DEC which prohibited his use of agency staff, equipment, or resources for such activities.

### ***3. Stone Kept Chickens and Other Animals at the Wildlife Resource Center***

For years while Stone’s children were young, Stone purchased baby chicks as Easter presents for them. As the chicks grew and could no longer be kept at the children’s home, Stone moved them to the Wildlife Resource Center. As a result, the Center housed a number of chickens, which served no DEC purpose but were cared for by DEC employees. While Stone claimed that the chickens were used to demonstrate the method of drawing blood from fowl, Center staff disputed that assertion and declared that blood was never drawn from any of the chickens.

A Wildlife Resource Center employee described Stone’s use of staff and resources to care for the chickens and other animals as follows:

Feeding and housing of his personal domestic animals at the Wildlife Resource Center, including chickens, ducks, turkeys and, recently, a puppy that are kept outside in substandard conditions. He tells everyone that the domestic animals are used for research and training needs, but there have been no tests run on these animals, nor does he have the proper certification to use live animals for research purposes. He instructs and uses state personnel to feed, clean and care for his personal domestic animals often requiring weekend and overtime hours.

The Inspector General determined that Stone used a state-issued credit card to purchase the chickens and their feed. Lawrence Skinner, the Section Head of the Environmental Monitoring Section and Stone's direct supervisor for a number of years, advised the Inspector General that the cost of the feed alone from 2004 to 2008 exceeded \$2,400; and he estimated the value of the staff time devoted to the care of the chickens during the same period to exceed \$10,000.

Stone denied purchasing the animals for his children. He testified, "I had chickens and rabbits pretty much the entire 40 years, and I would take them out to schools and the like, because they're easily transported, and talk about birds using them as an example."

#### ***4. Stone Requested Staff Babysit His Children***

When Stone had custody of his children, he frequently brought them to the Wildlife Resource Center. According to an employee, his children were present two to three times per week during the summer months when they were on vacation from school. A Center employee described to the Inspector General the atmosphere at the Center when Stone's children were present:

When they arrived they immediately began playing with their toys [housed in the Wildlife Resource Center conference room], including air guns that shoot small plastic BB's, slingshots that shoot rubber bands, and any number of other things, including items there for DEC personnel use, like nets and things for catching animals. They run through [the] offices, play on the computers; use the copier to make copies of posters which they then hang up, and are just generally disruptive.

It was a source of frequent aggravation for myself and other employees to have four children running around . . . with Ward yelling at them, too, while we were trying to do work. When I first started working there, before I knew what was going on, Ward asked me to keep an eye on one of his kids [who was there because he was sick and had been picked up from school], so he could do a phone interview with press about CWD [Chronic Wasting Disease], into which he did not want his child to interrupt. This took about half an hour. I was outraged, but since I had just started I didn't know what to do about it. I did not feel it was an appropriate use of my time and skills to babysit his children during work hours.

In his testimony, Stone maintained that his children only came to the Wildlife Resource Center during the work day occasionally when they were small. He claimed that his secretary had volunteered to babysit the children when he was busy with official duties.

#### ***5. Staff Used as Personal Drivers and Movers***

The Inspector General found that Stone used Wildlife Resource Center staff to drive him and his children to medical appointments and for other personal errands. On one occasion, Stone requested the help of an employee to transport a bed from his daughter's residence using the employee's truck, an errand which took three hours of state time. When asked about this incident by the Inspector General, Stone stated, "Well, [the particular employee was] the only one that had a personal truck." Stone said he did not believe that the move occurred on state time.

Stone also conceded that when he first appeared on the WAMC radio program, he had staff drive him to the station because he had not been provided a parking spot. Stone attempted to justify this practice by claiming that it did not take a lot of the employee's time.

## ***6. Stone Failed to Properly Supervise and Train Subordinate Staff***

DEC staff reported to the Inspector General that Stone did not provide them with training regarding safety procedures, accident response protocols, and proper techniques for use in the laboratory. They described several examples of the effects of such lack of training.

For example, one newly hired technician was given the task of cleaning coolers with a chemical on one of his first days, with no instruction whatsoever. He then accidentally splashed the chemical in his eye because he was neither told of the dangerous nature of the chemical, nor the proper way in which to apply it. This same employee and another new technician were both sent to pick up a dead raccoon, without rabies pre-immunization shots, and with no experience on how to collect such an animal. Stone reportedly told one employee to show another how to handle the dead animal but neither had ever been trained. This raccoon retrieval occurred on perhaps their second or third day on the job. No instruction was provided as to what type of protective gear should be worn in the various labs.

Likewise, another employee, Stone's longtime secretary, told the Inspector General that she was required to complete a number of duties, such as pulling bird tissues from the freezer for West Nile Virus shipments, or picking up birds and other dead animals in the field.

During this period, two employees interviewed by the Inspector General contracted West Nile Virus at the facility. One employee cut himself on a scalpel that was not disposed of properly. The other could not pinpoint the cause or time of his exposure other than the fact that he was dealing with West Nile Virus on a daily basis. For such a small staff, two instances of exposure to potentially deadly disease are clearly unacceptable. Stone seemingly never took these accidents seriously, because DEC upper management refused to hold him accountable, emboldening Stone to regard himself as untouchable. In his interview by the Inspector General, Stone virtually said as much

when asked why he proceeded to work on the West Nile Virus despite the DEC Commissioner telling Stone that he did not like it. Stone stated, “I’m Ward Stone and I got 40 years experience. I can do those kind of cases. . . .”

### **The Inspector General Finds a Long History of Complaints But Ineffective Response By DEC Management**

Stone’s 40-year employment covered the tenures of 10 DEC Commissioners.<sup>5</sup> The Inspector General’s investigation revealed not only that Stone’s misconduct occurred over a long period, as described above, but also that numerous complaints about Stone had been brought to DEC’s attention on prior occasions. Indeed, complaints about Stone were repeatedly made to DEC by agency staff, and on several occasions such complaints were referred to DEC from the Inspector General.

The investigation also found that while Stone’s direct supervisors and other mid-level managers at DEC made serious and persistent efforts to address his conduct through established disciplinary procedures, their efforts at times were deliberately thwarted by DEC’s executive management.

#### ***1. 1970s – 1990s***

As early as 1976, a secretary asked to be reassigned because of a stressful work environment that she blamed on Stone, her supervisor. In 1978, DEC issued Stone a letter of reprimand for personal use of a state vehicle and failure to comply with a supervisor’s previous directive not to use a state vehicle for personal purposes. DEC’s performance evaluation of Stone for 1988-1989 noted that he was an ineffective supervisor and that he was negligent in failing to submit required time records. In fact, the Inspector General found that Stone’s failure to submit time records, a basic

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<sup>5</sup> The former Commissioners include: Peter Berle, 1976-1979; Robert Flacke, 1979-1982; Henry Williams, 1983-1987; Thomas Jorling, 1987-1994; Langdon Marsh, 1994-1995; Michael Zagata, 1995-1996; John Cahill, 1997-2001; Erin Crotty, 2001-2005; Denise Sheehan, 2005-2007; and Alexander “Pete” Grannis, 2007-2010.

responsibility of state government employees, persisted for the next 20 years or more, despite numerous directives by supervisors.

In January 1990, DEC brought formal disciplinary proceedings against Stone, issuing a Notice of Discipline for his failure to follow agency procedures, including submission of time records; failure to comply with direct orders; failure to fulfill supervisory responsibilities; failure to complete performance evaluations; and failure to submit a required traineeship plan. Following an administrative hearing, Stone was fined \$200 and his pay was withheld until his delinquent time records were submitted.

In August 1991, Stone appealed an “unsatisfactory” performance evaluation rating for the April 1990 - March 1991 period. His appeal resulted in his rating being changed from “unsatisfactory” to “effective but needs substantial improvement.” Stone publicly disclosed his appeal and received support from various media outlets.

In October 1991, DEC’s Office of Counsel issued Stone a counseling memorandum citing his “constant tirades” against the agency and other employees at the Wildlife Resource Center. A March 1992 memorandum from DEC Assistant Commissioner for Human Resources Elroi Baumann to then Commissioner Langdon Marsh noted that a technician who was a subordinate of Stone in the wildlife pathology laboratory transferred to the Central Office because she found working conditions under Stone “intolerable,” and that another subordinate employee in the laboratory took a voluntary demotion in order to obtain a different assignment.

Stone’s failure to submit required time records continued. In January 1996, Lawrence Skinner, who headed DEC’s Environmental Monitoring Section and served as Stone’s direct supervisor for a number of years, issued Stone a counseling memorandum regarding this misconduct.

Several months later, DEC executive management issued Stone two counseling memoranda regarding his unauthorized contacts with the media which he almost

immediately ignored. In an April 2, 1996 memorandum, Assistant Commissioner Gavin Donohue reprimanded Stone for having spoken with a newspaper reporter the previous months without agency permission, and directed Stone to cease such conduct. In an April 4, 1996 memorandum, Donohue warned Stone, “If you continue to ignore agency policy, Civil Service charges of insubordination may be filed against you.”

However, within a week, Stone defied the directive, prompting an April 10, 1996 memorandum from Donohue which stated, “Today, you appeared on a local radio morning show discussing general policy of the Department. Your statements regarding this Agency, its policies and this Administration are completely inaccurate and lack any factual basis.” [sic] Donahue’s memorandum concluded, “Your continued disregard for the Agency policy, and your ignoring of a direct order to refrain from such action as occurred today, is irresponsible and not explainable.” [sic] However, despite Stone’s clear insubordination, DEC executive management did not file formal charges against him, as it had threatened to do.

## ***2. Early 2000s***

A June 22, 2001 Counseling Memorandum from Lawrence Skinner reported that Stone continued to engage in verbal abuse. The memorandum, which documented a counseling session with Stone conducted by Skinner, stated:

This counseling session was necessitated by direct and indirect reports from several Department staff that at least some employees in the Wildlife Pathology Unit are or have been in fear of their personal safety, or in fear of personal retribution via remarks or statements, loud voice, postures, actions, or other means that are threatening (e.g., threat of firing), and such actions are frequently, perhaps routinely, employed by you as the supervisor.

You acknowledged there have been instances where at least some of the behaviors reported have occurred including: using a raised voice (you also acknowledged one instance of yelling or verbal assault) with individuals or several staff simultaneously for instances where operations or functions did not meet your expectations; drop kicking a telephone log book in the

hallway and having “been known to kick books,” using statements which belittle the employee (e.g., stating directly to employees that they are “ill-trained,” “unprepared,” “useless,” and “should be fired.”); and pounding a cup on the a table to emphasize points. According to employees, some of these actions occur in close sequence to each other or concurrently, leaving the impression that physical harm may result and engendering fear. You stressed that at no time has there been any physical contact with an employee.

While Stone signed the memorandum acknowledging that the counseling session had occurred and his abusive behavior discussed, when confronted with the signed counseling memorandum by the Inspector General, his responses indicated that he didn’t take it seriously. Stone stated:

I didn’t pay a great deal of attention to it . . . You know it’s full of inaccuracies and it’s written by a person who has long been jealous of me and after me. This is a long-term thing. . . .

In April 2002, Stone received another Counseling Memorandum from Skinner, this one addressing his spending in excess of budget and his unauthorized use of two laboratories for chemical analysis.

Soon thereafter, in June 2002, the Inspector General received an anonymous complaint alleging that Stone, over the course of the preceding year, had lived at the Wildlife Resource Center, the facility in Delmar where he was assigned, and that his four young children regularly visited him there. After determining that the complaint concerned a management issue which could be handled within the agency, the Inspector General referred the matter to DEC for investigation by letter dated June 17, 2002. In fact, about a month earlier, DEC had received reports from its own staff that Stone was living full-time at the Wildlife Resource Center.

An August 15, 2002, memorandum prepared by Skinner indicated that he met with Stone on that date to discuss the allegations and to conduct a tour of the Wildlife Resource Center. In the memorandum, Skinner advised Stone that his staying overnight at the facility “[i]f done, represents a misuse of the facility for which disciplinary actions

may be taken,” and that “*if* [facility] staff were to provide supervision of your children during business hours, that would constitute improper use of state personnel and may be subject to disciplinary action.” [Emphasis supplied.]

However, other than Skinner’s meeting with Stone, there is no indication that DEC took any action to investigate the allegations, nor conducted any follow-up. Additionally, although Skinner’s memorandum indicated that the results of the meeting with Stone would be reported to the DEC Commissioner for transmittal to the Inspector General, there is no documentation that this notification to the Inspector General occurred. Given DEC’s lack of action in this instance, it is not surprising that the issue of Stone residing at the Wildlife Resource Center became a recurrent problem for DEC.

### **2005 Counseling Memorandum of Steven Jay Sanford**

The record shows that three years later, Stone’s reported misconduct continued, as did efforts by supervisors to address the problems. In August 2005, Steven Jay Sanford, Chief of the Bureau of Habitat and Skinner’s supervisor, prepared yet another counseling memorandum which was issued to Stone. In the memorandum, Sanford identified five areas of inappropriate behavior by Stone, noting that the problems were “chronic,” and that although the matters had been addressed both formally and informally in the past, “no substantive progress has been made.”

Cited again was Stone’s reported abusive treatment of staff. According to Sanford’s memorandum:

Stories of abusive behavior toward staff are legion but have not been documented in most cases. Bullying and threatening are a common thread. Staff appear to live in a climate of fear, especially of retribution. They have resisted entreaties to lodge formal complaints because they know that there is no direct oversight and so believe that the problem will not be corrected and that the climate will only worsen if they complain.

Sanford noted “egregious” examples of Stone’s abusive behavior which included throwing objects at staff and “charging a staff person as would a bull.” Sanford also recounted his own unpleasant interactions with Stone: “As his supervisor, I have experienced regular verbal tirades – until I responded appropriately almost 2 years ago. He has avoided me ever since.” Sanford added, “It has been reported that numerous staff have left rather than continue to suffer the subject’s abusive behavior.”

Sanford’s memorandum also accused Stone of misappropriating state resources. According to the memorandum, “In recent years, the subject [Stone] has taken additional jobs with at least 3 other employers: as an adjunct professor at SUNY Cobleskill and at the College of Saint Rose; and as a guest on a regular Friday afternoon spot and as a host of the ‘In Our Backyard’ program on WAMC, a local public radio station.” Although Stone obtained the appropriate annual approval for his outside employment, it came with specific restrictions. Stone was told that he may “not use DEC staff, vehicles, telephones, facilities, equipment or supplies to meet his responsibilities at SUNY Cobleskill.” Yet, Sanford advised, “[r]ecent reports assert that the subject has assigned permanent DEC staff to prepare lessons and examinations and to grade examinations.”

Sanford further noted that Stone “has regularly overspent his allocated budgets for both Personal Service and Non-Personal Service. Without prior approval, in recent years, he has exceeded these allocations repeatedly, sometimes by hundreds of thousands of dollars – which represents as much as 74 percent more than approved levels.” In addition, Sanford wrote, “the subject commonly purchases items with willful disregard for procedures. Attempts at corrective actions by his supervisors have been unsuccessful.”

Sanford also reported “complaints of [Stone] living at the Wildlife Resource Center over a period of at least 5 years.” Sanford continued, “I spoke with him about it in the fall of 2000; he promised at the time not to do it again. In response to third-party reports of this behavior over the ensuing years, his direct supervisor has also confronted him on this matter. Recent reports assert that he keeps his clothing in file cabinets and

has a sleeping bag on the floor of his office....” The memorandum also noted “numerous reports” that Stone “regularly has his young children at the Wildlife Resource Center, especially on weekends,” and points out that “the potential risks to their health are self-evident.”

Lastly, Sanford cited Stone’s “long history of delinquent Time & Activity Records.” Sanford described “repeated supervisory attempts” to correct this behavior as “unsuccessful.” At the time, Sanford counted 88 delinquent time records.

### **DEC Executive Management Intervenes But Fails to Take Effective Action**

On August 5, 2005, DEC Director of Labor Relations Joseph Lattanzio forwarded the Sanford memorandum to Assistant Commissioner for Public Protection Hank Hamilton and Deputy Commissioner for Administration Jack McKeon, adding the note: “FYI – I believe it’s time we involve the State IG.” In his testimony to the Inspector General, Lattanzio stated that in response to the memorandum and note, McKeon told Lattanzio that a referral to the Inspector General “would need the okay from the Commissioner [Denise Sheehan] and the Deputy Commissioner.” In fact, no referral was made at that time, despite the legal requirement that state employees and officers promptly report misconduct to the Inspector General.

Not only did DEC neglect to forward the Sanford complaints to the Inspector General, it also failed to address them in any meaningful way. On September 21, 2005, DEC Executive Deputy Commissioner Lynette Stark e-mailed Lattanzio, Hamilton, and Barnhart, stating: “I have asked [a secretary] to set up a meeting with Ward to go over some of these many issues.” It appears that no meeting with Stone occurred; but, three months later, on December 14, 2005, a meeting was held that included Stark, Lattanzio, McKeon, Hamilton, Barnhart, and William Herman, who at the time headed DEC’s internal audit investigation unit. After a discussion, according to Lattanzio, Stark stated that a formal counseling session would be conducted with Stone. However, Lattanzio testified that no such counseling session took place.

Despite this inaction at the executive level, efforts by supervisors to control Stone continued. In a January 11, 2006 e-mail, Barnhart informed Stone that submission of time records was required and important. Barnhart wrote:

Ward, I want you to understand the seriousness of this directive. Your failure to account for your time, and the time of your subordinates, is a failure of basic employee and supervisory responsibility. Practically, it precludes us from fully documenting and seeking reimbursement for expenses incurred for CWD management.<sup>6</sup> In turn, that is damaging the Division's budget, our other programs and the Conservation Fund. Further, as seasonal payrolls will soon be calculated from information in LATS, your seasonal staff cannot be paid if their time cards are not submitted and approved via LATS. It is imperative that you comply with this directive.

A week later, on January 18, 2006, Barnhart again e-mailed Stone on the same subject:

The Governor has proposed a \$7.5 million deficiency appropriation for DEC to help us defray CWD response costs. Your time and salary are an important component of that and we must be able to fully account for our expenses in order to gain legislative approval of the proposed deficiency appropriation. We can't do that until all your time cards are up to date, approved and entered. Only then can we do the time & activity summaries to demonstrate the value of your staff time expended on CWD. Therefore, my prior directive to you stands. I expect you to report to headquarters at 625 Broadway tomorrow, and continue to do so until all your time cards are complete. Ward, I find it hard to believe that you would jeopardize legislative approval of the \$7.5 million by failing to fulfill your obligations as an employee and wildlife pathologist. I expect your full cooperation.

On March 1, 2006, the Inspector General's Office referred another complaint about Stone's conduct to DEC. In November 2005, a laboratory technician at the Wildlife Resource Center had addressed a written complaint to the Inspector General which included numerous serious allegations, some of which echoed past complaints.<sup>7</sup>

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<sup>6</sup> Chronic wasting disease (CWD) is an infectious disease which afflicts deer and other animals. As part of DEC's management of CWD, Stone's unit examined dead deer for evidence of the disease.

<sup>7</sup> The complaint was also sent to Skinner and Barnhart, Stone's supervisors. In addition to Stone's alleged abusive treatment of staff, the complaint accused Stone of the killing of four to five penned deer in anticipation of an inspection of the facility; mistreatment of a puppy and chickens he had purchased for his

Following a limited review by the Inspector General's Office, representatives of the Inspector General's Office met on March 1, 2006, with DEC executive managers McKeon, Lattanzio, and Herman of DEC to advise that the matter was being referred to DEC for administrative action.

The Inspector General notes that the Inspector General's Office at that time could have conducted its own inquiry into the matter, rather than merely refer the allegations to DEC. Moreover, following the meeting with DEC executive management, the Inspector General's Office should have inquired as to what if any action DEC took in response to the referral, but did not do so. It is likely that had such an inquiry occurred, DEC's inaction would have been revealed, and the Inspector General's Office could have commenced a full investigation resulting in findings and recommendations at that time.

### **Disciplinary Action Against Stone Thwarted by DEC Executive Management**

While DEC was reviewing the issues referred to it by the Inspector General, on March 6, 2006, Stone addressed the topic of his delinquent time records on the program, "In Our Backyard," on the Albany-based public radio station WAMC. He first described how he saved time by making a pile of papers he had received from his supervisors, then sweeping them off his desk into a recycling box. He continued to explain that he did not complete his time records because they required him to code different activities and he did not, on most days, know what he did at any given time. He acknowledged, however, that the requested information was used for funding purposes.

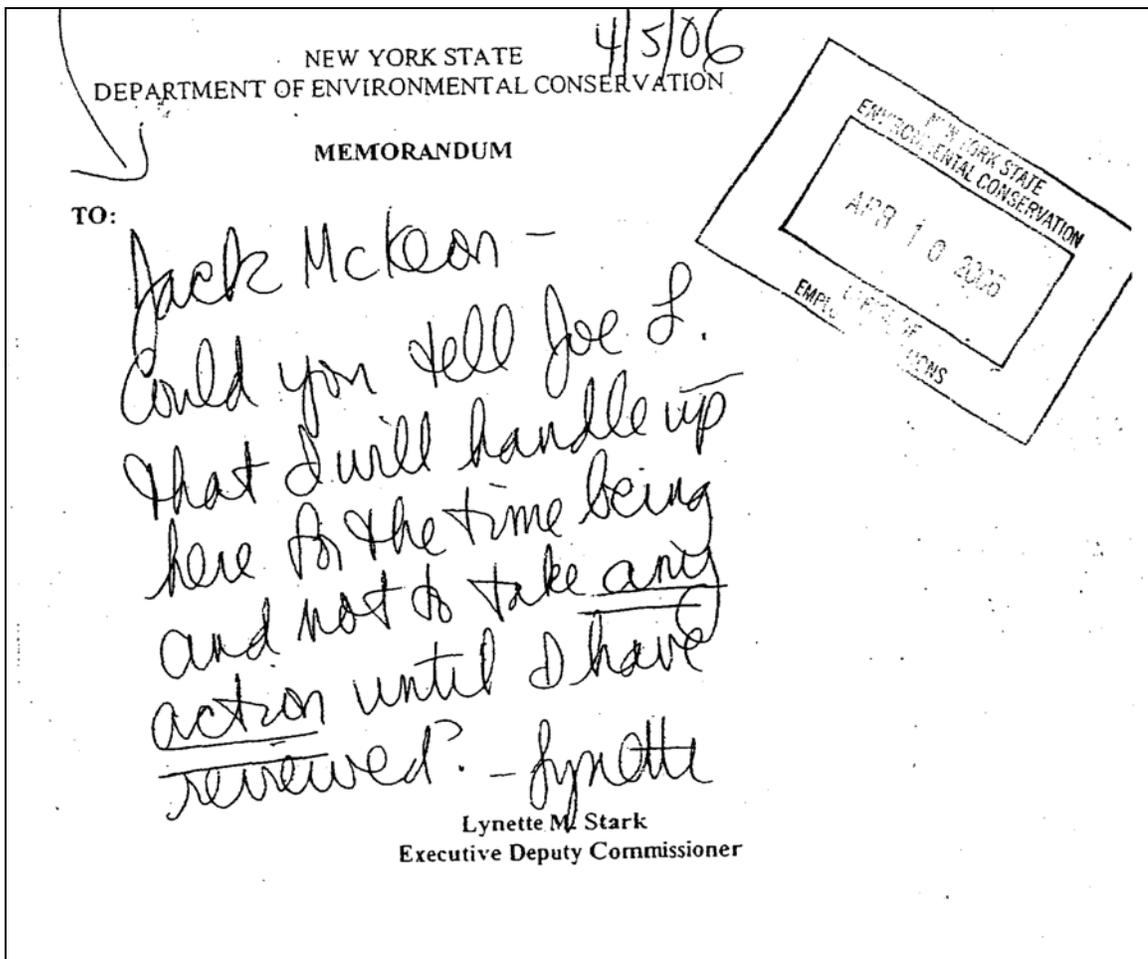
The following day, March 7, 2006, Barnhart forwarded a memorandum to Lattanzio requesting the initiation of formal disciplinary action against Stone for insubordination. Barnhart's 12-page memorandum cited a number of past directives to Stone regarding the time card issue. Additionally, the memorandum noted that on a

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children which were kept at the facility; his continued residence at the facility; his frequent disappearance for hours to attend to personal business; his misuse of employees and state resources; lack of training of staff; and additional details of Stone's alleged mismanagement of the unit.

number of occasions Stone had been directed to appear at DEC headquarters or report to Skinner, and warned that failure “may be considered insubordination.”

However, before Lattanzio was able to commence the disciplinary process against Stone, he was directed by executive management to take no action. Specifically, in an April 5, 2006 handwritten note, Executive Deputy Commissioner Stark instructed McKeon: “Could you tell Joe L. [Lattanzio] that I will handle up here for the time being and not to take any action until I have reviewed?” The following day, April 6, 2006, McKeon returned Barnhart’s memorandum to Lattanzio with the comment, “See Lynette’s note.” (Stark’s note is reproduced below.)



No record exists of the promised “review” or of any action concerning Stone by Stark, whose tenure at DEC ended in December 2006, the final month of the administration of former Governor George Pataki.

When interviewed by the Inspector General as part of the instant investigation, Stark recalled that her involvement regarding Stone related to delinquent time cards, and stated that she believed, but did not remember specifically, that she met with him and advised him that he must complete time records. When informed by the Inspector General that no record of any such meeting could be located, she acknowledged that her recollection might be wrong. Stark also testified that she did not recall discussing Stone with McKeon. However, when the Inspector General showed her the April 5, 2006 note, she acknowledged writing it. Stark professed no recollection of the December 2005 executive management meeting or the substance of the Sanford memorandum which, as noted, was discussed at that meeting. Further, Stark testified that she did not remember whether she ever checked to determine if the issues were rectified.

In the end, Barnhart’s serious effort to address Stone’s misconduct was thwarted or ignored by executive management, and produced no results.

### ***3. Late 2000s***

#### **DEC Employee Files Affirmative Action Complaint Against Stone**

In October 2007, a secretary who had transferred from the Wildlife Resource Center to DEC’s central office, filed a complaint with the DEC Affirmative Action Office alleging that inappropriate conduct by Stone had created a hostile work environment at the Center. Following an investigation by the Affirmative Action Office, DEC and the complainant reached an agreement, finalized on May 16, 2008, which included DEC removing Stone’s supervisory responsibilities and prohibiting him and any other employee from living at the Wildlife Resource Center.

However, six months after the agreement had been finalized, noting that DEC had failed to take any action against Stone, the secretary filed a complaint regarding Stone's conduct with the New York State Division of Human Rights. Based on its review of the investigation conducted by DEC's Affirmative Action Office, the Division of Human Rights concluded that Stone treated everybody poorly, regardless of sex or race. Shortly thereafter, DEC acted to strip Stone of his supervisory responsibilities, and from that time until his retirement in 2010, Stone performed virtually no supervisory functions. However, as detailed below, much of his improper behavior continued.

### **June 2007 Counseling Memorandum Cites Numerous Issues**

Despite having been frustrated in his earlier effort, Barnhart continued to attempt to address Stone's improper behavior. In a June 22, 2007 counseling memorandum, Barnhart repeated prior complaints and admonitions to Stone about residing at the Wildlife Resource Center and his misuse of state resources. This memorandum also included a new charge – that Stone stored personal firearms at the center.

In his memorandum, Barnhart advised Stone that his intent was to produce “immediate corrective action which may avoid the need for formal discipline or legal action.” Barnhart summarized Stone's inappropriate actions in four areas: (1) Stone was residing at the Wildlife Resource Center in violation of agency policy and specific directives; (2) Stone had used DEC resources including state vehicles, state staff time, and state equipment to prepare for, deliver, and grade course work for courses Stone taught at SUNY Cobleskill and the College of St. Rose; (3) Stone used DEC resources for personal purposes including using state vehicles and staff to transport himself and family members for personal business; and (4) Stone stored personal firearms at the Wildlife Resource Center in violation of DEC policy on firearms in the work place.

Barnhart noted that Stone's action were serious violations of his responsibility as a state employee, unit supervisor, and public officer. He instructed Stone to (1) immediately cease living at the Wildlife Resource Center and to remove all non work-

related personal articles from the facility; (2) cease the use of any DEC resources in relation to Stone's outside teaching; (3) cease all use of any DEC resources for personal reasons; and (4) to immediately remove all personal firearms from the facility.

With the exception of the allegation concerning firearms, the issues addressed in Barnhart's memorandum mirrored complaints about Stone which had been made to the Inspector General at about this time as well. Preliminary investigation of these complaints by the Inspector General confirmed that Stone was continuing to reside at the Wildlife Resource Center, despite previous orders to vacate. On May 6, 2008, members of the Inspector General's Office met with DEC Commissioner Alexander "Pete" Grannis and other DEC executives, and advised them of this finding. Upon assurances from the Commissioner that administrative action would be taken, the Inspector General referred the matter to DEC. However, it appears that DEC failed to take any responsive action at that time, and the Inspector General's Office at that time again failed to follow up with the agency to determine what if any action was taken.

If any action was taken, it appears to have had little or no impact, because only three months later, in August 2008, Stone was the subject of yet another counseling session and memorandum, initiated by his then supervisor, Patricia Riexinger, Director of the Division of Fish, Wildlife and Marine Resources. This new memorandum not only noted Stone's ongoing violations in two of the four areas noted in the June 22, 2007 memorandum, but also documented repeated violations extending back a number of years, including abusive treatment of staff; failure to submit time cards; misuse of state resources; and housing live animals.

In summary, the August 2008 memorandum reported that Stone continued to reside at the Wildlife Resource Center; continued to store personal firearms at the center; repeatedly demonstrated abusive and unreasonable behavior towards staff at the center that created a hostile work environment; continued to neglect to complete and submit time records in a timely manner, a delinquency which dated back 10 months; and

procured services, particularly laboratory analysis, in conflict with Office of State Comptroller procurement guidelines.

The corrective actions mandated by Riexinger in the August 2008 counseling memorandum echoed those from Barnhart's 2007 counseling memorandum and were as follows: (1) cease residing at the Wildlife Resource Center no later than August 17, 2008, and remove all non-work related personal items, including clothes, toiletries, children's toys, pet chickens; (2) remove personal firearms no later than August 17, 2008; (3) cease use of state resources for personal purposes; and (4) cease abusive treatment of a staff member who had previously complained about Stone. While Stone acknowledged receipt of the memorandum and its placement in his personnel file, he wrote, "I do not agree with many of these items and my signing this does not reduce the need for discussion." Indeed, Stone disregarded these directives by his superior.

When Stone's reported misconduct persisted, on December 16, 2008, Riexinger requested that Lattanzio initiate disciplinary proceedings against Stone. In her request, Riexinger noted Stone's ongoing residence at the Wildlife Resource Center, his continued failure to submit time cards, and his failure to attend prescribed training courses. On February 2, 2009, Lattanzio forwarded a certified letter to Stone directing that he appear on February 20 for an interrogation, and warning him that failure to appear could result in formal disciplinary charges. However, the letter was returned because the address Stone had provided DEC was apparently not an official address for him or a place where he actually resided.

### **DEC Executive Management Again Intervenes to Thwart Discipline of Stone**

In April 2009, before further steps toward disciplinary action could be taken, DEC executive management again intervened on Stone's behalf. In this instance, DEC Deputy Commissioner for Administration McKeon advised Lattanzio that "in lieu" of discipline, DEC Commissioner Grannis would personally speak to Stone about his conduct.

McKeon's instructions to Lattanzio were memorialized in a handwritten note by Lattanzio and included in Stone's personnel file. (The note is reproduced below.)

NEW YORK STATE  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

**MEMORANDUM**

**TO:** *W. Stone Discipline File*  
*DD8-26*  
*and confidential file*

*4-1-09*

*Per notification from*  
*J. McKeon Mr. Stone will be*  
*"spoken to" by Commissioner in*  
*lieu of discipline.*

*JL*

**JOSEPH A. LATTANZIO**  
**Director of Employee Relations**

A subsequent exchange of e-mails demonstrates the negative effect McKeon's directive had on Stone's supervisors. In an e-mail, Riexinger informed Lattanzio that he should delay any interrogation of Stone and not take any administrative action because her superior, Deputy Commissioner Christopher Amato, had spoken with Commissioner Grannis who decided

instead to speak with Stone personally and informally. In their testimony to the Inspector General during this investigation, both Lattanzio and Riexinger agreed that while they were obligated to abide by Commissioner Grannis's decision, they felt frustrated by the intervention of executive management in this matter. As Lattanzio expressed to Riexinger in an e-mail at the time, "Stone is getting yet another pass on misconduct that any other employee would surely be disciplined or otherwise held accountable for." Riexinger responded to Lattanzio that she had made that same argument to her superiors.

### **Commissioner Grannis and Deputy Commissioner Amato Meet with Stone**

Grannis's appointment as DEC Commissioner in April 2007 marked his return to the agency where he had served as Compliance Counsel in the early 1970s. In an interview conducted during this investigation, the Inspector General reviewed with former Commissioner Grannis Stone's personnel file and history of complaints. The Inspector General then asked Grannis if there exists "any explanation in view of this history that he is still an employee of DEC." In response, Grannis acknowledged that "disciplinary action certainly would have been warranted on a number of these incidents." When asked whether he had ever precluded staff from taking disciplinary action against Stone, Grannis related that he and Amato had met with Stone, whom he had known for 30 to 40 years, believing that his personal relationship with Stone would sufficiently impress upon him that the alleged misconduct was serious and must stop. Grannis explained:

It was to, I guess to convey to him either the fact that—I'm just trying to remember the, the sequence. The problem with persisting, he hadn't complied with the directives from the past, and this was to tell him right from the top that these directives were going to be enforced . . .

It was a comply or else that we said, you know what, this activity could not continue. Other people may have tolerated things, but I wasn't going to tolerate it, and that was – this was comply, or else.

Grannis indicated that he warned Stone that disciplinary action would have to be initiated if Stone did not comply with the directives of previous disciplinary memos, stating: “We told him now either shape up or . . . disciplinary actions would be started.”

The Inspector General queried Grannis regarding his instructing McKeon in 2009 to refrain from taking disciplinary action against Stone so that he could speak to Stone. Grannis said he did not recall the conversation or its substance but stated that if McKeon had attested to it, it was probably accurate, stating, “I think if Jack [McKeon] said that, I probably did tell him that.” Grannis recalled having spoken to Stone on two occasions. Grannis was then asked why it would be necessary to speak to him a second time if the first one was a warning “or else.” Grannis candidly responded:

It was a management decision . . . Ward has a following out there, and if I thought . . . we could fix the problem or we could get him to change his ways and behave, according to our standards, that was a preferable outcome to taking on, you know, Ward in a public setting. As you know, he has the ability to marshal press attention, media attention, community support. Again, I thought, you know, that it was certainly within my judgment that we could fix the problem if we talked to Ward directly.

The Inspector General then queried Grannis about letters listing complaints against Stone which had been forwarded to him. Initially, he testified that he did not concern himself with anonymous letters. When asked specifically about letters forwarded to him by the Inspector General which went unanswered, Grannis testified that he did not recall if he had ever even read them.

When interviewed by the Inspector General during this investigation, Amato described his and Grannis’s meeting with Stone as a “heart-to-heart discussion.” Amato acknowledged to the Inspector General that he had known Stone for more than 30 years and had worked for him as a summer volunteer at the Wildlife Resource Center between Amato’s graduation from college and his entering law school. As a result, it appears that Amato approached the discussion with Stone, at least in part, as a meeting with a friend:

The Commissioner and myself went out and met with Ward . . . for that purpose, sit down with Ward, and just sort of have a heart-to-heart discussion with him. To sort of – I mean, Ward is very much, sort of a lone wolf. He has for, you know, as long as I can remember, been sort of, you know, a bit of a renegade in terms of being out there, talking to the press, working on issues, and so forth, and I know that at times in the past, people in DEC have been uncomfortable with that.

Acknowledging that their meeting was not part of an internal investigation or disciplinary process, Amato stated that their purpose “was just sit down and talk to Ward” and make it clear to him that he must comply with agency regulations “whether you agree or disagree with what’s in the counseling memo.” When Amato stated that “we hoped” Stone would comply, the Inspector General asked if the limit of his authority was merely to hope that Stone complied. Amato did not give a direct answer, stating that he did not deal with personnel issues, which he said were beyond the area of his and Commissioner Grannis’s expertise. The Inspector General pointed out that the 2008 counseling memorandum noted Stone’s failure to comply with previous directives, and asked Amato if that failure constituted insubordination. Amato responded that he did not know because he had never accused an employee of insubordination.

Underscoring the concerns arising from Amato’s acknowledged friendship with Stone, Amato revealed in his testimony that he had informed Stone that he was appearing before the Inspector General in connection with an investigation of Stone.

### **Lafarge Cement Plant Issue**

In or about 2009, members of the community in the Coeymans area formed Community Advocates for Safe Emissions (CASE) to focus attention on emissions standards for the Lafarge Cement Plant located in Coeymans. At the time, the plant was in the process of applying to DEC for permits necessary for the construction of a new manufacturing facility to replace the existing plant. In 2009, Stone volunteered to assist CASE by performing a study of various animal and soil samples to determine if the emissions from the plant were safe. Stone stated that the intent of the testing was to

obtain information which would contribute to efforts to address emission problems with the current plant, which was to remain in operation until the new plant was completed, approximately six years later.

In his volunteer work for CASE, which continued into 2010, Stone was acting as a private citizen, not a DEC employee. As Grannis testified, it was “well understood that this was something Ward was doing totally outside of his responsibilities for the department.” When Stone was questioned by the Inspector General, he testified that he undertook the work for CASE despite recognizing that Grannis “didn’t like me doing it,” and, in fact, never sought Grannis’s permission but merely said, “I told him I was going to do that.” Inconsistent with the testimony of both Grannis and Stone, however, Amato claimed that he had given Stone verbal permission to assist CASE, and that he, Amato, viewed the work as part of his DEC duties.

During the period Stone was performing the work for CASE, questions were raised about his activities. In response, Riexinger, assisted by DEC’s internal audit unit, conducted a review seeking to determine if Stone had utilized state resources while working on behalf of CASE. However, when Riexinger sought to obtain Stone’s DEC e-mail and telephone records, Amato intervened, directing Riexinger by e-mail that any review of such records be “suspended immediately.” When Riexinger complained to Executive Deputy Commissioner Stuart Gruskin, Amato e-mailed Gruskin, stating:

The request for the investigation was apparently based on the incorrect assumption that Ward Stone’s work on Lafarge was unauthorized and therefore not Department business. In fact, I personally authorized Ward Stone’s work on the Lafarge plant, including his collection of samples. The fact that he had contacts with members of the community affected by the plant’s pollution strikes me as appropriate for someone who works for a public environmental agency.

Riexinger, on May 12, 2010, replied to Amato in an e-mail as follows:

Hey, if you have that directive/authorization to Ward in writing, can you forward a copy to me? I was totally unaware of this work being ok'd by you and as his supervisory chain of command, however perfunctory it is, we should know what you asked him to do. What about funding for analysis of samples? I certainly can't pay for that! Thx. I just know this is going to be an issue and I don't want to be at cross-purposes with you.

Amato responded to Riexinger on May 13, 2010:

Patty. As you know it is not my practice to issue written "directives" to DFWMR staff. When I would like a project or task to be undertaken, I either speak with staff directly or email them. Similarly, when staff requests approval to undertake a specific project or activity, that approval is usually given verbally or via email. Further, as you know, I do not involve you in every email exchange of discussion I have with staff. In Ward's case I provided verbal authorization for his Lafarge work.

Riexinger wrote to Amato:

Yikes. I was just wondering if you'd sent an email or something to him. People keep asking whether we had ok'd his work there. If you had, it would just make the answer easier.

Gruskin, noting the inconsistency of Stone stating that he was working for CASE on his own and Amato claiming to have authorized Stone's work on behalf of DEC, overruled Amato and allowed Riexinger to continue her investigation of Stone's records. When questioned about an e-mail to Riexinger in which Amato claimed that Gruskin had agreed with Amato to only examine Stone's alleged misuse of a state vehicle, Gruskin testified that "that would not justify [Amato] telling people not to look at the e-mail . . . it would have nothing to do with it. . . ."

This incident is significant because it demonstrates again how efforts by managers to perform their supervisory duties with respect to Stone met resistance from executive

officials, although in this instance Amato's attempt to halt Riexinger's investigation of Stone was overruled. It is further significant as Stone's alleged misuse of a state vehicle in his volunteer, non-DEC related work for CASE became, along with other issues, part of the formal disciplinary proceeding which resulted in Stone concluding his DEC employment.

Gruskin reported to the Inspector General that he informed Grannis that he had directed the initiation of a disciplinary case against Stone, and this time, Grannis allowed the disciplinary action to proceed.

### **2010 Disciplinary Actions and the Settlement Agreement**

Gruskin's actions represented the first time since 1990 that a high-ranking DEC official had approved formal disciplinary action against Stone. Gruskin admitted knowledge of Amato's and Grannis's previous attempt to impress upon Stone the importance of conforming to DEC's rules and abiding by directions. Nevertheless, he too first elected to counsel Stone regarding the long history of complaints about Stone which had been brought to his attention. Gruskin explained that he did so because he also recognized and shared the concern about a possible negative reaction in the media and wanted to ensure that any disciplinary action would be completely successful. Gruskin acknowledged the history of Stone's apparent insubordination but also noted Stone's many accomplishments, and his desire to proceed in a positive direction and to be productive. Gruskin emphasized his primary interest was solving the problem rather than initiating discipline. However, according to Gruskin, if it became necessary to take action, the agency would do so.

Following years of frustrated efforts by Stone's immediate supervisors, on April 28, 2010, DEC ultimately served Stone with a Notice of Discipline. Specifically, the Notice of Discipline charged:

- In violation of DEC regulations and in defiance of previous warnings, Stone used a DEC vehicle for personal, non-DEC business purposes. This occurred on 25 occasions between January and March 2010, including two instances when he used the vehicle to drive to his non-DEC teaching job at SUNY Cobleskill, and one occasion in March 2010 when he transported two individuals who were not DEC employees to the Lafarge Cement Factory.

- Stone failed to comply with a supervisory directive to submit vehicle mileage reports for a DEC vehicle he used from November 2009 to March 2010.

- In violation of DEC regulations and in defiance of supervisory directives, Stone failed to submit 66 bi-weekly time and attendance records between October 2007 and April 2010.

- Stone failed to appear for an official DEC interrogation scheduled for April 13, 2010.

DEC initially sought \$6,393.37 in restitution, Stone's retirement, and a completion of two-and-a-half years of time records.<sup>8</sup> While Stone agreed to accept New York State's retirement incentive which DEC approved, he agreed to pay only \$1,565.58 for his abuse of the state vehicle. The remainder of the funds sought, monies paid for feeding Stone's chickens and rabbits, were to be submitted for arbitration, which to date has not occurred. Stone also agreed to submit updated time and attendance records. On September 24, 2010, Stone signed the Settlement Agreement with DEC. He retired on September 28, 2010.

### **DEC Cancels Stone's Post-Retirement Volunteer Status**

As part of the Settlement Agreement, DEC allowed Stone to apply for volunteer status which would afford him access to written materials relating to his prior work as a

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<sup>8</sup>Pursuant to the retirement incentive in New York State Division of the Budget Bulletin B-11190.

wildlife pathologist for the purposes of “preparing reports, peer-reviewed articles or other written work” and “organizing files so they can be used in subsequent agency work.” The Settlement Agreement also required Stone to remove all personal property not related to his authorized volunteer work from the facility no later than December 1, 2010. It appears that Stone’s compliance with DEC requirements has been no better in retirement than it was during his employment.

In an October 4, 2011, letter, more than a year after his retirement, Patricia Riexinger advised Stone that since his retirement, DEC has not seen “any progress” toward the development or publication of any reports or articles. Nor, according to Riexinger’s letter, have any files been organized. In fact, Riexinger advised Stone, “the condition of your files and the rooms you have inhabited are in great disarray, are scattered with garbage, and are unsafe and unsanitary.” Riexinger further noted that many of Stone’s personal items have not been removed from the facility, but remain “scattered amongst all the rooms you currently and have previously occupied.”

As a result, Riexinger concluded, Stone’s volunteer status was not being renewed and he was directed to remove all personal belongings before October 13, 2011, after which date they would be discarded.

### **Comparison of DEC’s Response to Stone and DEC’s Discipline of Other Employees**

Throughout this investigation, numerous current and former DEC employees and officials stated to the Inspector General that if any other employee other than Stone had engaged in similar misconduct, disciplinary action would have resulted. Joseph Lattanzio, who served as DEC’s Director of Employee Relations for much of the period in which these events occurred, informed the Inspector General and reported in an e-mail dated February 10, 2009, referring to Stone, that any other employee would be disciplined. In his interview with the Inspector General, former Commissioner Grannis agreed that any employee but Stone would have been disciplined for misdeeds like Stone’s.

As a result, the Inspector General conducted a review of over a dozen disciplinary actions initiated by DEC's Office of Employee Relations. The Inspector General also reviewed over 100 complaints it had received related to DEC personnel over a five-year period. The purpose of this review was to determine what types of employee misconduct rose to a level where discipline was initiated by DEC management. The review supported the assertion that Stone was treated differently from other DEC employees who had presented similar examples of misconduct in the work place such as Stone's admitted misuse of a state vehicle, his direct and open insubordination to directives to discontinue his living at the Wildlife Resource Center, and his refusal to complete or submit time records.

In one instance, for example, the Inspector General found that based upon a referral from this office, DEC initiated and completed the investigation of an Albany-based DEC employee alleged to have been utilizing a state vehicle for personal business unrelated to his DEC duties. DEC's investigation determined that the individual utilized the vehicle for commuting purposes as well as personal business, such as making frequent trips to the gym. Based on these findings, DEC's Office of Employee Relations recommended disciplinary action and sought 10 weeks suspension. A disciplinary settlement between the individual and DEC agreed to five days of unpaid suspension.

The first documented report of Stone's misuse of a state vehicle was in 1978 when he received a letter of reprimand for personal use of a state vehicle and refusal to comply with a supervisor's instructions previously advising him not to use a state vehicle for personal purposes. This allegation was repeated throughout the years and referred back to DEC by the Inspector General for appropriate action, which could have included discipline. Stone was finally served a Notice of Discipline for the use of a state vehicle in April 2010.

The Inspector General found multiple similar instances of DEC commencing disciplinary action against employees for insubordination and failure to follow management directives. For example, an employee who refused to follow a supervisor's

directive was suspended without pay for one day. Another DEC employee was suspended for five days for calling his supervisor a profane name and not following a directive.

These examples highlight the level of accountability to which DEC employees were being held and the disparate treatment accorded Stone. DEC took the initiative in commencing discipline against its employees when sufficient evidence was developed by DEC investigations or by outside agencies, such as the Inspector General. In these cases, DEC employees were held accountable for behavior which violated DEC policies and procedures.

Stone, however, was not held to this standard: his misconduct -- including abuse of fellow employees, misuse of state vehicles, residing at the Wildlife Resource Center, and failure to complete accurate time and attendance records -- was well documented by his diligent immediate supervisors. Most importantly, when instructed by his supervisors to complete necessary tasks or to halt inappropriate conduct, Stone simply ignored the request, or worse, publically refused to comply. As recounted throughout this report, Stone's insubordination was mishandled by DEC's executive management throughout his career.

#### **IV. FINDINGS AND RECOMMENDATIONS**

The Inspector General's investigation found that during his tenure at DEC, Stone engaged in misconduct over a long period, including the misappropriation of DEC resources for his personal benefit. By his own admission, Stone resided at DEC's Wildlife Resource Center, where his office was located, for at least 50 percent of the time during the period 2001-2009. He also regularly used state equipment for his personal use during that time. The Inspector General calculated the value of the improper benefit to Stone resulting from his unauthorized residence at the Center at a minimum of approximately \$29,000.

Stone also improperly used subordinate staff to drive him and provide other services relating to his non-DEC activities, including outside teaching positions and his hosting of a radio program. Stone admitted that his conduct in this regard violated the terms of DEC's approval of his involvement in these outside activities. Additionally, Stone for years kept personally owned animals, including chickens, at the Wildlife Resource Center, at state expense. Stone's supervisor estimated that the feeding and care of the chickens alone cost DEC more than \$12,400.

Repeatedly, over a long period, Stone also failed to comply with basic record-keeping requirements. Stone went years without submitting time records, even boasting in public about his defiance of this requirement. Shortly before his retirement, Stone was more than two years delinquent in filing his time records. Stone also was verbally abusive to subordinates.

The Inspector General also found that for many years Stone engaged in misconduct with impunity, even though DEC executives were aware of his behavior. He was repeatedly insubordinate, but largely without consequence. While Stone's direct supervisors and other managers made serious efforts to address his conduct, they were not supported by the agency's executive management at the time. Indeed, at critical points, DEC executive management intervened to thwart attempts to discipline Stone. DEC executive management's reluctance to act appears to have been driven, at least in part, by fears about a negative reaction in the news media which had long supported Stone.

Stone's apparent immunity from punishment did not go unnoticed at DEC. One frustrated manager no doubt expressed the view of many when he stated, "Stone is getting yet another pass on misconduct that any other employee would surely be disciplined or otherwise held accountable for."

After years of tolerating his misconduct and insubordination, DEC executive management finally sought to discipline Stone in 2010, resulting in Stone's retirement

from state service in September 2010 and his agreement to make reimbursement of \$1,500 for his misuse of a state vehicle.

The record of Stone's misconduct also shows that the Inspector General's Office itself could have acted with greater effectiveness at the time complaints about Stone were first brought to its attention. Although the Inspector General referred complaints it received to DEC in 2002, 2005, and 2008, and received assurances that action would be taken, the Inspector General's Office at that time did not follow up with DEC to assess if and to what extent DEC had addressed the matters. Under the direction of Inspector General Ellen Biben, the Inspector General's Office has implemented procedures to ensure that the office pursues effective follow-up action.

The Inspector General has provided this report to DEC for review and appropriate action. The Inspector General is also forwarding these findings to the New York State Attorney General's Office. The Inspector General previously referred possible violations of the New York State Public Officers Law by Stone to the New York State Commission on Public Integrity, which has been superseded by the Joint Commission on Public Ethics.