



INTER-OFFICE MEMORANDUM
Department of Public Protection
125 West New York Ave., Suite 183
DeLand, FL 32720
386-740-5120 – FAX 386-740-5283

TO: Richard Gardner
Lifeguard Supervisor

DATE: October 18, 2011

FROM: Mike Coffin, Director *MC*
Department of Public Protection

FILE NO: DPP11-116

SUBJECT: Notice of Intent to Dismiss

REFERENCE: IA 2011-09-297

Be advised that as a result of your actions documented in IA 2011-09-297, it is my intent to dismiss you from employment with the County of Volusia. The basis of this action is the determination that you have violated the following Volusia County Merit Rules and Regulations and Division of Beach Safety Policies and Procedures:

Sec. 86-453. Reasons for disciplinary action.

- (8) ...or other conduct which interferes with effective job performance or has an adverse effect on the efficiency of county service;
- (10) ...unsatisfactory performance of duties;
- (12) Knowingly giving false statements to supervisors...;
- (13) Any conduct, on or off duty, that reflects unfavorably on the county as an employer, and
- (21) Any other conduct or action of such seriousness that disciplinary action is considered warranted.

Sec. 86-45. Conduct of employees.

a) Code of conduct. Employees of the county government are employed to provide service to the citizenry of the county and the public in general and are expected to conduct themselves in a manner that will reflect credit on the county government, public officials, fellow employees and themselves. Employees must avoid any action which might result in or create the impression of using public office for private gain, giving preferential treatment to any person, or losing impartiality in conducting public business; and

Division of Beach Safety Policy and Procedure- Neglect of Duty

11.01.05 Neglect of duty offenses include any act, failure to act or instance wherein an employee ignored, paid no attention to, disregarded, failed to care for, give proper attention to or carry out

Richard Gardner,
Lifeguard Supervisor
DPP11-116
Page 2 of 4

the duties and responsibilities of their position whether through carelessness, oversight or neglect.

To wit:

Based on an anonymous letter provided to the Director of the Department of Public Protection, the Internal Affairs Unit was directed to initiate an investigation into allegations of specific, inappropriate behavior reported to have been committed by you. You were served with notice of the internal investigation on September 22, 2011.

Included as an allegation in the anonymous letter was that you were rumored to be "sleeping with officer Paige Winters," a probationary employee. On September 23, 2011, Officer Elizabeth Paige Winters, who is on probation, was interviewed and confirmed that she had been involved in an intimate relationship with you which began the week of August 8, 2011 and ended sometime in September 2011.

On October 6, 2011, pursuant to the internal affairs investigation, you provided a sworn statement to address the allegations against you. You admitted that you were involved in an intimate relationship with Officer Winters beginning sometime in August 2011 for approximately 2 to 3 weeks. You also acknowledged that you were fully aware that Officer Winters was a probationary employee during the time of your relationship. Although you were not her direct supervisor at the time of the affair, as a Captain in the organization who at times serves as the acting Deputy Chief of the Division, you clearly held a supervisory position of authority over her.

It was also alleged in the anonymous letter that you were "sleeping with another female officer while on duty." It was further alleged that that this officer was in line for a position under your supervision during your affair.

On September 29, 2011, Officer Cara Gittner was interviewed and confirmed that she had been romantically involved you since February 2009. On the date of the interview, Officer Gittner indicated that you were still romantically involved, but that she had limited contact with you since you were served with your notice of the internal affairs investigation. Although Officer Gittner stated that there had been no inappropriate contact between you while either of you were on duty, she admitted that, on more than ten occasions, she had kissed you while you were in your county vehicle when you were off-duty, leaving work and that she had hugged you on occasion while either one or both were on duty and that others would have seen this. Officer Gittner stated that she had confided in Beach Safety Captain Mindy Greene regarding her relationship with you although she advised that she had not reported the relationship to any other supervisor.

Richard Gardner,
Lifeguard Supervisor
DPP11-116
Page 3 of 4

During her interview, Officer Gittner further disclosed that in the early morning hours of August 7, 2011, she called you on your personal cell phone in a distressed, emotional state of mind. She said she told you that she was frustrated and wanted to leave the Division of Beach Safety, telling you, "Come get my gun." She contends that you took it to mean that she was going to do harm to herself and, when asked, admitted that, at this time, she was not feeling stable. Officer Gittner advised that you came to her residence and secured her service weapon, as well as her personal weapon, at her request. The next day, before Officer Gittner was to report for duty, you returned the weapons to her without making any evaluation of her fitness for duty. Further, you made no report of this incident to your supervisors although on that date, you were assigned as the on-call Deputy Chief for the Division.

In your sworn statement, you reported that you have been involved in a romantic relationship with Officer Gittner since early to mid 2009. You said you ended the relationship shortly after being served with notice of the pending internal affairs investigation in September 2011. While you corroborate Officer Gittner's testimony that none of your personal contact with her occurred while either of you were on duty, you admitted that you often met Officer Gittner on your way home from work while in your county vehicle to talk and would kiss her when she was leaving. You also admitted that on at least ten occasions during 2009-2010 (both before and after your affair began) while you were working security in the parking garage after regular business hours, Officer Gittner would call and ask to come visit you. Although you contend that you had no inappropriate contact on those occasions, you admitted that you spent time showing her computer techniques and giving her information "on how to better herself." On those occasions, you were being paid to provide a law enforcement presence for security reasons in a county facility; yet, you admit that this contact with Officer Gittner while you were on duty, ultimately culminated in an intimate relationship.

You also admitted that at least four other officers in the Division had first-hand knowledge of your relationship with Officer Gittner and that you aware of this because it was discussed. All of those named by you as having such knowledge were line level officers. While none reported directly to you, they were all subordinates to you and were peers of Officer Gittner, and their knowledge of your actions clearly undermined your authority as a supervisor in the organization.

During the time that you were involved with Officer Gittner, you were asked by a supervisor whether you were having an inappropriate relationship with her, which you denied. More recently, I asked you whether there was anything in your background which could cause embarrassment to the Division and you said, "No." Clearly, these statements were misleading and untrue.

Captain Gardner, during the time that you began and continued your intimate relationships with Officers Gittner and Winters, the Division was under intense scrutiny related to lawsuits by former minor employees alleging unlawful sexual relationships between officers and minor lifeguards. Because of this scrutiny, additional direction and training was provided to you, as well as other members of Beach Safety, about the importance of professionalism, particularly in

Richard Gardner,
Lifeguard Supervisor
DPP11-116
Page 4 of 4

the context of relationships in the workplace. You and your fellow supervisors were cautioned repeatedly to be mindful of any behavior that would give even the appearance of impropriety or unprofessionalism within the Division. These admonitions, coupled with your position of authority in the organization and your role as a deposed witness in these lawsuits, make your conduct even more egregious. Your conduct plainly reflects unfavorably on the county as an employer.

As revealed in this investigation, your conduct also demonstrates a complete lack of judgment which cannot be tolerated. This is evidenced by your recent decision to engage in an inappropriate relationship with a trainee, a long standing sexual relationship with a subordinate, your failure to take appropriate action as a supervisor with regard to the fitness for duty of your paramour, your attempts to mislead your superiors regarding your relationship, and your blatant disregard for recent directives cautioning against and discouraging unprofessional conduct.

Although your sixteen years of service as a Beach Safety Law Enforcement Officer and supervisor reflects numerous commendations, your conduct is unacceptable. Your conduct sets an extremely poor example of the integrity and professionalism expected of an officer with your experience, unfavorably reflects on the Division of Beach Safety and Volusia County Government, and leaves me with no choice but to terminate your employment.

Pursuant to the Volusia County Merit System Rules, Section 86-455, the Volusia County Legal Department and Human Resources Director have reviewed and concur with this intended action.

In accordance with section 86-455 (f) of the Merit System Rules and Regulations you may respond either orally or in writing to this intended action. If you wish to respond, such response will not be accepted after October 24, 2011 at 4:30 p.m. If you wish to meet with me in person, you must contact me within the time limit stated above. I may be reached at 386-740-5120 or by e-mail at: Mcoffin@co.volusia.fl.us. If you do not contact me by the time indicated, it will be assumed that you have waived this right. Should your response be inadequate or should you fail to respond in a timely manner, this action will proceed.

Signature of Employee

Date and Time Received

cc: ___ Kevin Sweat, Director, Beach Services
___ James Ryan, Deputy Director, DOPP
___ Chandra Gordon, EEO Coordinator

___ Nancye Jones, Assistant County Attorney
___ Tom Motes, Personnel Director