



Brevard County Sheriff's Office
Titusville, Florida

D. L.
5/2/17
X Carol Wirth
Francis

To: Chief Deputy Doug Waller

From: Agent Charles LaRoche, Staff Services Unit

Date: May 2, 2017

Re: Administrative Investigation (2017-CI-002)
Deputy Douglas McCarty (ID #469)
Judicial Technician Nichelle King (ID #647)
Judicial Technician Nena Carmany (ID #0482)
Judicial Technician Darlene Durante (ID #1415)

I. Summary:

This investigation was initiated after it came to light that a subject had been arrested twice on the same warrant.

On December 15, 2016, the Honorable Judge Thomas J. Brown issued a VOP warrant for "Kyle Hayes," refer to case #052015CT037483A. On December 21, 2016, Mr. Hayes appeared in Judge Brown's courtroom and was arrested on the active warrant. Court Services Deputy Douglas McCarty placed Mr. Hayes under arrest and completed the appropriate paperwork. Per the arrest affidavit (923.01), the warrant was confirmed and cleared by Judicial Process Technician Nichelle King.

On February 19, 2017, Officers with the Cocoa Beach Police Department came in contact with Mr. Hayes for an unrelated incident, they conducted a warrants check on him through FCIC/ NCIC. The check through Cocoa Beach PD Teletype revealed an active VOP warrant. CBPD sent a "10 minute hit" to the Brevard County Sheriff's Office Judicial Process unit to confirm the warrant. The warrant was confirmed as active by Judicial Technician Darlene Durante. It was later determined that this VOP warrant was actually the same warrant that was served on December 21, 2016.

An initial investigation revealed that, although the warrant was issued on December 15, 2016, it had not yet been entered into the BCSO systems before Mr. Hayes' arrest on December 21, 2016, however, it was in the Clerk of Courts eFACTS system. The clerk in Judge Brown's courtroom was utilizing eFACTS and is actually the person that identified the subject as having an active warrant. A check of the eFACTS system confirmed that the

Clerk of Courts staff had entered the arrest warrant on December 19, 2016 and that it had been served in open court on December 21, 2016.

The warrant was later entered into the BCSO systems as active by Judicial Technician Supervisor Nena Carmany, after the arrest was made.

II. Possible Policy Violations

- 400.00 General Professional Responsibilities
- 400.04 Substandard Performance
- 500.18 Criminal Process Procedures

III. Witnesses

Joanne Homer
Judicial Process Manager
Brevard County Sheriff's Office

On February 27, 2017, Lieutenant JoAnna Seigel and I conducted a sworn, audio recorded, interview with Manager Joanne Homer at Staff Services. The following is a summary of that interview:

I asked Manager Homer to describe the process of how a Court Services Deputy would confirm an active warrant on a suspect in attendance at a court hearing. She stated that when a deputy calls Judicial Process from the courthouse, the Technician checks to see if the warrant is active in FCIC/ NCIC. If the technician is unable to locate the warrant, they should check with the other Technicians in the office and see if anyone else has the warrant on their desk for processing. If it cannot be located there, the technician should also check the "accordion file" and the fax log. In a case where the warrant cannot be located in the office and is not active in FCIC/ NCIC, the technician should instruct the deputy to fax the warrant and arrest affidavit to Judicial Process. Once the warrant is faxed to Judicial Process, it is then entered, confirmed and cancelled. All of the above process should be annotated on a call log that every Judicial Process Technician is responsible for.

If the Court Services Deputy does not provide the copy of the warrant and 923.01 to Judicial Services within an hour of service, the Technician should call the deputy and advise him of the missing paperwork.

Manager Homer stated that Judicial Process maintains a Fax Log and a Recall Log. These logs document the receipt of warrants and information about recalled warrants. These logs are part of the checks and balances of the unit to ensure warrants are entered properly. All

logs and files including jail management and eFACTS information should also be checked prior to entering or confirming a warrant.

Robin Rasch
Judicial Technician III
Brevard County Sheriff's Office

On February 27, 2017, Lieutenant JoAnna Seigel and I conducted a sworn, audio recorded interview with Technician Rasch at Staff Services. The following is a summary of that interview:

Judicial Technician Rasch explained she took a phone call from Court Records Specialist Vanessa Williams, who advised there was a possible false arrest made on February 19, 2017. Technician Williams asked to speak to Manager Homer. After Manager Homer spoke with Court Records Specialist Williams, she and Manager Homer began researching the arrest and they discovered that Mr. Hayes had been arrested on the same warrant twice.

Craig Mawn
Court Services Corporal
Moore Justice Center

On February 27, 2017, Lieutenant JoAnna Seigel and I conducted a sworn, audio recorded, interview with Corporal Mawn at the Moore Justice Center. The following is a summary of that interview:

I asked Corporal Mawn to explain the procedure that a Court Services Deputy follows when serving a warrant in open court that is not already entered into FCIC / NCIC. Mawn stated the first step a Deputy should make is to call Judicial Process and confirm if the warrant is active. If the warrant is not showing active in our systems (New World or CAILBER), the Deputy is responsible for utilizing all resources to determine the validity of the warrant. He can contact the issuing judge or a higher authority than a Clerk of the Court before making the arrest.

In the event the arrest warrant is confirmed before it is entered, a copy of the warrant and 923.01 should be faxed to Judicial Process in order for them to confirm and cancel it. Mawn stated it is the responsibility of the arresting deputy to confirm the paperwork has been received by Judicial Process. If the Deputy is unable to confirm the validity of the warrant, he should take the information to his supervisor for further investigation.

Vanessa Williams
Court Records Specialist
Brevard County Jail Complex

On February 28, 2017, Lieutenant JoAnna Seigel and I conducted a sworn, audio recorded, interview with Ms. Williams at the Brevard County Jail Complex. The following is a summary of that interview:

Court Records Specialist Williams stated she had received a call from the Jail Clerk Supervisor Teresa Atkinson that a warrant had possibly been served twice. Williams was unfamiliar with the next step as she is new to Inmate Records so she spoke with her supervisor who told her to contact Judicial Process. She spoke with JT Rasch and faxed the warrant, court minutes and 923.01 from the 2016 arrest to Judicial Process. She notified her chain of command regarding the arrest duplication. She had no other involvement in this incident.

Rockford Roblin
Court Services Deputy
Moore Justice Center

On March 6, 2017, Lieutenant JoAnna Seigel and I conducted a sworn, audio recorded, interview with Deputy Roblin at the Moore Justice Center. The following is a summary of that interview:

Deputy Roblin stated that he was assigned to inmate movement on December 21, 2016 and he was not assigned to specific courtroom. I asked him if he remembered the arrest of Mr. Hayes, he stated he did not. I showed Roblin the arrest warrant with the handwritten "C/C 647" on the bottom of the paperwork, Roblin stated that it was his handwriting but he did not remember the arrest.

Roblin stated that time of day (1500 hours), many courtrooms are down and there is not much to do as an Inmate Movement Officer. I asked Roblin if he remembered calling Judicial Process to confirm and clear the warrant, he stated he does not recall if he called or not. Roblin stated it is possible that he was assisting McCarty and that he completed the arrest affidavit for him.

IV. Subject Employees:

Douglas McCarty
Field Training Officer
Moore Justice Center

On February 28, 2017, Lieutenant JoAnna Seigel and I made contact with FTO Douglas McCarty and provided him with a "Notice of Administrative Investigation." I explained the allegations and informed him to contact a representative of his choice if he desired to have one with him during his interview. The interview was scheduled to take place on Thursday, March 2, 2017 at 1430 hours at Staff Services.

On March 2, 2017 FTO McCarty arrived at Staff Services with Coastal Florida PBA Representative Al Boettjer. Prior to the sworn audio recorded interview, McCarty was provided with, and reviewed the entire case file, and listened to all audio files associated with this investigation. Details of the interview are as follows:

McCarty confirmed that on December 21, 2016, he was assigned to Judge Brown's courtroom. McCarty explained that every day he runs a docket check to see if those expected in the courtroom the following day are in jail or have active warrants. If he sees an active warrant, he writes the information on the docket sheet and provides it to the sitting judge. McCarty stated he did not remember this specific arrest of Mr. Hayes. He viewed the video from the courtroom that I obtained and still did not recall the event. McCarty stated he normally would have known of this warrant but due to the fact that it was not entered into the C.A.L.I.B.E.R. system, he may not have had prior knowledge. When McCarty viewed the courtroom video, he was unable to tell for certain if he knew about the warrant before Mr. Hayes was seen before Judge Brown.

I asked McCarty if he called Judicial Process to confirm the warrant or if someone else did it for him, he replied that he did not remember. After looking at the paperwork (A copy of the Arrest Warrant) he saw *C/C 647*, and recognized that handwriting as being Deputy Roblin's. McCarty stated that Roblin may have called and cleared the warrant through Judicial Process. He did recognize that it is his ultimate responsibility that the paperwork is processed correctly due to him being the arresting deputy.

Nichelle King
Judicial Technician III
Brevard County Sheriff's Office

On February 28, 2017, Lieutenant JoAnna Seigel and I made contact with Judicial Technician Nichelle King and provided her with a "Notice of Administrative Investigation." We explained the allegations and informed her to contact a representative of her choice if she desired to have one with her during his interview. The interview was scheduled to take place on Tuesday, March 7, 2017 at 1000 hours at Staff Services.

On March 7, 2017 King arrived at Staff Services with Coastal Florida PEA Representative Al Boettjer. Prior to the sworn audio recorded interview, King was provided with and reviewed the entire case file and listened to all audio files associated with this investigation. During her interview King repeatedly stated that she did not recall the specifics of this incident, details of the interview are as follows:

King was provided a copy of her phone log which contained an entry about the warrant on Mr. Hayes, the entry contained the suspect's name and birthdate as well as the case number for his arrest and Deputy McCarty's ID number. King acknowledged the handwriting was hers, but she stated that she did not recall taking the call.

King did not recall checking the received mail or checking with the other technicians to try and locate the warrant.

Although she could not remember the specifics of this event, King did acknowledge that it is the responsibility of the call taker to ensure the completion of the warrant entry and cancelation, which was not done.

Nena Carmany
Judicial Technician III
Brevard County Sheriff's Office

On March 14, 2017, Lieutenant JoAnna Seigel and I made contact with Judicial Technician Nena Carmany and provided her with a "Notice of Administrative Investigation." I explained the allegations and informed her to contact a representative of her choice if she desired to have one with her during his interview. The interview was scheduled to take place on March 16, 2017 at 0700 hours at Staff Services. Details of her interview are as follows:

On March 16, 2017, Judicial Technician Supervisor Carmany arrived at Staff Services for her interview without any representation. Prior to the sworn audio recorded interview, Carmany was provided with, and reviewed, the entire case file and listened to the audio recordings to her satisfaction. Details of the interview are as follows:

Carmany agreed that the documentation provided showed that she processed Mr. Hayes' warrant as active on December 22, 2016 at approximately 0335 hours. Carmany stated she must have overlooked the Register of Actions section from eFACTS where the notes showed that the warrant was served in open court of December 21, 2016. Carmany stated she understands it is her responsibility to ensure the documentation is correct.

Carmany stated when looking at eFACTS, she normally looks for the word "Recalled" because that is the most common occurrence when processing warrants. A situation like this one with Hayes' warrant does not happen very often. Carmany stated she made a mistake and did not realize the warrant had been served.

Darlene Durante
Judicial Technician III
Brevard County Sheriff's Office

On March 20, 2017, Lieutenant JoAnna Seigel and I made contact with Judicial Technician Darlene Durante and provided her with a "Notice of Administrative Investigation." I explained the allegations and informed her to contact a representative of her choice if she desired to have one with her during her interview. Judicial Technician Durante advised she was not seeking representation for her interview and was desiring to interview at that time in the Staff Services Office. Details of her interview are as follows:

After reviewing the case packet, Durante acknowledged that, based on her identification number on the New World print out, that she received the "Hit Confirmation" from Cocoa Beach Police Department on February 19, 2017. On the New World print out it showed "eFACTS" checked, but she cannot confirm if she is the person who actually checked the registry because there are normally two people working and they both work together when processing warrant hits. She added that because radio traffic still continues and the radio terminal operator can not necessarily walk over to the files containing the actual warrant, the radio operator may request a coworker pull the warrant file. *It should be noted that per FDLE standards, a Hit Confirmation response must be completed in less than 10 minutes.*

V. Other Investigative Efforts

I obtained the video from Judge Brown's courtroom for December 21, 2016. Although the courtroom was videotaped, there was no audio attached. I observed McCarty place Mr. Hayes under arrest and exit the courtroom with Deputy Roblin. After leaving the courtroom, McCarty returns after less than one minute.

I also accessed the eFACTS system and printed out the comments related to the warrant in question. As noted previously, the eFACTS entry revealed that the warrant was entered into the system on December 19, 2016, another entry reveals that the warrant was served in open court on December 21, 2016. I verified with the Clerk's Office that the entries into eFACTS are automatically date stamped upon entry and that the entry person does not have the ability to back-date or post-date an entry.

VI. Summary and Recommendations:

The following is a summary of the key points of this investigation:

- December 15, 2016, Judge Brown signed a Violation of Probation warrant for Mr. Hayes.
- December 19, 2016, the Clerk of Courts Office entered the warrant into eFACTS.
- December 21, 2016, the warrant was received by Judicial Process but does not get entered immediately. The time stamp on the warrant indicates it was received at 0835 hours.
- December 21, 2016, Mr. Hayes was seen by Judge Brown and placed under arrest by FTO McCarty for the warrant, with an amended bond. The 923.01 reflects the time of arrest was 1500 hours.
- On December 21, 2016, King received a call telling her that Mr. Hayes was in custody. King failed to properly process the information she was given or to thoroughly check the systems at her disposal. At the time of this call the information on the warrant was available for her review in eFACTS.

- December 22, 2016, Supervisor Carmany entered the warrant as active, during this process she failed to recognize that the warrant had been served the day prior, this was noted in eFACTS.
- February 19, 2017, Judicial Technician III Durante mistakenly confirmed the warrant as being active when officers from the CBPD inquired about it. Durante also failed to read the earlier entries in eFACTS.

Based on the fact that no follow up investigation was done on the part of Judicial Technician King in attempt to locate the arrest warrant paperwork in Judicial Process, as well as the lack of subsequent contact with the arresting deputy to fax the paperwork.

I recommend the following administrative charges against **Judicial Technician III Nichelle King** to be closed as follows:

Section 400.00, General Professional Responsibilities – “Sustained”
Section 400.04, Substandard Performance – “Sustained”
Section 500.18, Criminal Process Procedures – “Sustained”

Deputy McCarty arrested the subject on the active warrant on December 21, 2016, at that time he was in possession of a copy of the arrest warrant and could have supplied it to Judicial Process had he been asked for it. Nichelle King confirmed and cancelled the warrant and would have had the responsibility to follow up with Deputy McCarty if she was unable to locate the warrant which is ultimately what occurred.

I recommend the following administrative charges against **Deputy Douglas McCarty** to be closed as follows:

Section 400.00, General Professional Responsibilities – “Not Sustained”
Section 400.04, Substandard Performance – “Not Sustained”
Section 500.18, Criminal Process Procedures – “Not Sustained”

Judicial Technician Supervisor Carmany stated that she reviewed eFACTS before she entered the warrant for Mr. Hayes on December 22, 2016. Had she reviewed the notes that were added by the deputy clerk, Carmany would have seen that the warrant was served in open court the day prior.

I recommend the following administrative charges against **Judicial Technician III (Supervisor) Nena Carmany** to be closed as follows:

Section 400.00, General Professional Responsibilities – “Sustained”
Section 400.04, Substandard Performance – “Sustained”
Section 500.18, Criminal Process Procedures – “Sustained”

Judicial Technician Durante failed to properly review the same eFACTS notes that Carmany reviewed. Due to this oversight, she confirmed the warrant even though it had already been served.

I recommend the following administrative charges against **Judicial Technician III Darlene Durante** to be closed as follows:

Section 400.00, General Professional Responsibilities – “Sustained”

Section 400.04, Substandard Performance – “Sustained”

Section 500.18, Criminal Process Procedures – “Sustained”

VII. Enclosures

- a. **Authorization for Command Inquiry**
- b. **Notice of Administrative Investigation-Durante**
- c. **Administrative Investigation Warning-Durante**
- d. **Notice of Administrative Investigation-Carmany**
- e. **Administrative Investigation Warning-Carmany**
- f. **Notice of Administrative Investigation-King**
- g. **Administrative Investigation Warning-King**
- h. **Notice of Administrative Investigation-McCarty**
- i. **Administrative Investigation Warning-McCarty**
- j. **923.01-Hayes 12/21/16**
- k. **Copy Hayes Warrant issued 12/15/16**
- l. **923.01-Hayes 2/19/17**
- m. **Incident report 2016-00429125**
- n. **Daily Assignment for Moore Justice Center 12/21/16-Provided by FTO McCarty**
- o. **Timeline of events-Provided by FTO McCarty**
- p. **Attorney View Register of Actions (eFACTS)**
- q. **Copy of JT King’s phone log**
- r. **Copy of JP Fax Log**
- s. **Copy of Court Minutes-Hayes (Bond Modification) 12/21/16**
- t. **Copy of FCIC Hit Response 12/22/16 (Verification of Entry)**
- u. **Copy of Order issuing VOP for Hayes 12/15/16**
- v. **Copy of Inmate Record Comments**
- w. **Copy of New World Comments**
- x. **DVD of Moore Justice Center**

VIII. Oath

I, Agent Charles W. LaRoche, do hereby swear, under penalty of perjury, that to the best of my personal knowledge, information, and belief, I have not knowingly or willfully deprived, or allowed another to deprive, the subject of

the investigation of any of the rights contained in ss. 112.532 and 112.533,
Florida Statutes.

Signed Agnt Charles W. LaRoche #612
Agent Charles W. LaRoche #612

Sworn to and subscribed before me, the undersigned authority, and this ~~1st~~ day of
May, 2017. 2nd

Signature Marla Grubill
NOTARY PUBLIC/LAW ENFORCEMENT OFFICER
IN PERFORMANCE OF OFFICIAL DUTIES



Concern w/ finding
AS they pertain
TO C/S DEPUTY McCarty -
(MAG) 5/2/17



Brevard County Sheriff's Office
Titusville, Florida

MEMORANDUM

TO: Judicial Process Supervisor Nena Carmany
FROM: Commander Michael DeMorat *MDJ 287*
DATE: May 4, 2017
RE: Final Action
Administrative Investigation 2017-CI-002

TIME	7:30a	A TRUE COPY	M.
DATE	5-10-17		
BREVARD COUNTY SHERIFF'S OFFICE			
Received By: Nena Carmany			
<i>Nena Carmany</i>			
Signature of Employee Served			
Served by:			
<i>Det. David 527</i>			
Signature of Agent/Deputy			

Administrative Investigation 2017-CI-002 is now closed. The final action regarding this matter is the determination of sustained charges and the application of appropriate corrective action.

The administrative investigation determined that on December 22, 2016, you entered an arrest warrant as "active," not recognizing that the warrant had already been served, this information was available to you in the eFACTS system. Based on my review of the completed investigation, I have determined that your actions in this matter were in violation of the following:

- Section 400.00, General Professional Responsibilities – "Sustained"*
- Section 400.04, Substandard Performance – "Sustained"*
- Section 500.18, Criminal Process Procedures – "Sustained"*

During this investigation, you have displayed a positive attitude and have taken responsibility for your actions in this matter. As a result of this investigation, Judicial Process has since changed the warrants entry policy to include checking the "Attorney View" of the eFACTS system to prevent further error in the reading of the judicial comments. Based on your positive attitude and acceptance of responsibility, I have decided to mitigate the potential disciplinary action in this matter down to a **Written Counseling**.

This Final Action Letter will serve as your Written Counseling.

cc: Manager Lisa Gillis, Human Resources
Investigative File 2017-CI-002



Brevard County Sheriff's Office
Titusville, Florida

MEMORANDUM

TO: Judicial Technician III Darleen Durante
FROM: Commander Michael DeMorat *MD*
DATE: May 4, 2017
RE: Final Action
Administrative Investigation 2017-CI-002

TIME	1:43 P	A TRUE COPY	M.
DATE	3-11-17		
BREVARD COUNTY SHERIFF'S OFFICE			
Received By: Darleen Durante			
<i>[Signature]</i>			
Signature of Employee Served			
Served by:			
<i>[Signature]</i> 527			
Signature of Agent/Deputy			

Administrative Investigation 2017-CI-002 is now closed. The final action regarding this matter is the determination of sustained charges and the application of appropriate corrective action.

The administrative investigation determined that on February 19, 2017, you confirmed the validity of an arrest warrant as "active", not recognizing that the warrant had already been served. This information was available to you in the eFACTS system. Based on my review of the completed investigation I have determined that your actions in this matter were in violation of the following:

- Section 400.00, General Professional Responsibilities – "Sustained"*
- Section 400.04, Substandard Performance – "Sustained"*
- Section 500.18, Criminal Process Procedures – "Sustained"*

During this investigation, you have displayed a positive attitude and have taken responsibility for your actions in this matter. As a result of this investigation, Judicial Process has since changed the warrants entry policy to include checking the "Attorney View" of the Brevard County Clerk of the Court to prevent further error in the reading of the judicial comments. Based on your positive attitude and acceptance of responsibility, I have decided to mitigate the potential disciplinary action in this matter down to a **Written Counseling**.

This Final Action Letter will serve as your Written Counseling.

cc: Manager Lisa Gillis, Human Resources
Investigative File 2015-CI-037



Brevard County Sheriff's Office
Titusville, Florida

MEMORANDUM

DATE: May 17, 2017
TO: Deputy/ FTO Douglas McCarty
FROM: Chief Michael J. Lewis
RE: Administrative Investigation 2017-CI-002

A TRUE COPY	
TIME _____	M. _____
DATE <u>5-18-17</u>	
BREVARD COUNTY SHERIFF'S OFFICE	
Received By: Douglas McCarty	
<u>FD #469</u>	
Signature of Employee Served	
Served by:	
<u>M. J. Lewis 527</u>	

Command Inquiry 2017-CI-002 was initiated in response to allegations that you may have violated Brevard County Sheriff's Office policies and procedures. Based on the investigative report and overview, the following has been determined:

- The allegations that you violated General Orders *400.00 General Professional Responsibilities*, *400.04 Substandard Performance* and *500.18 Criminal Process Procedures* are being closed as "Not Sustained."

I realize that an administrative investigation can be stressful to the involved employees. However, the need to be responsive to allegations of misconduct makes it imperative that we investigate such allegations in a thorough and professional manner.

I appreciate the patience you have demonstrated while waiting for the investigative results. The investigative report is being provided for your review as an enclosure with this communication.

Attachment:

- 2017-CI-002 Investigative Report

c: Investigative File 2017-CI-002



Brevard County Sheriff's Office
Titusville, Florida

MEMORANDUM

TO: Judicial Technician Nichelle King (#0647)
FROM: Commander Michael DeMorat *MD 297*
DATE: May 4, 2017
RE: Final Action
Administrative Investigation 2017-CI-002

A TRUE COPY	
TIME	<i>2:00 P</i> M.
DATE	<i>5-10-17</i>
BREVARD COUNTY SHERIFF'S OFFICE	
Received By: JT Nichelle King	
<i>Nichelle King</i>	
Signature of Employee Served	
Served by:	
<i>JT Deig 527</i>	
Signature of Agent/Deputy	

Administrative Investigation 2017-CI-002 is now closed. The final action regarding this matter is the determination of sustained charges and the application of appropriate corrective action.

The investigation determined you failed to properly handle information about a warrant arrest that you had been notified of. Specifically, you failed to thoroughly search for the warrant or to ensure that the warrant was properly entered as being served. This failure later led to the subject being arrested a second time for the same warrant. Based on my review of the completed investigation I have determined that your actions in this matter were in violation of the following General Orders: *400.00 General Professional Responsibilities, 400.04 Substandard Performance and 500.18 Criminal Process Procedures.*

A review of your recent disciplinary history reflects that you received a **Written Counseling** for substandard performance issue in 2015, refer to **2015-A-151**. In 2016 you received a **Letter of Reprimand** and then an eight hour **Suspension Without Pay** for similar substandard performance issues, refer to **2016-A-047** and **2016-A-077**.

Based on your prior disciplinary history, you would be subject to progressive discipline up to, and including, termination of your employment. You have requested to "self-demote" from Judicial Technician III to Judicial Technician II. As I believe you will be able to successfully fulfill this level of assignment, I have decided to approve your request. I have also decided to mitigate the potential disciplinary action in this matter down to a **Letter of Reprimand**. Even though I think you will be able to handle the

responsibilities of your new assignment, the burden is on you to immediately improve your daily performance.

This Final Action Letter will serve as your Letter of Reprimand.

cc: Manager Lisa Gillis, Human Resources
Investigative File 2017-CI-002