



# City of DeLand

## DeLand Police Department

Jason D. Umberger  
CHIEF

DEDICATED TO  
OF POLICE  
PROTECT AND SERVE

### Internal Investigation Report

To: Gary Batten, Deputy Chief of Police

From: Lieutenant Juan Millan, Professional Standards

Subject: I.A. #19-03

Date: July 11, 2019

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**Complainant:**

Chief of Police

**Employee Involved:**

Officers Austin LaFleur and Leslie Goins, Operations Bureau

**Witnesses:**

Lieutenant Nick Mathis

**Investigators:**

Lieutenant Juan Millan, Professional Standards

Officer Luis Vazquez, Professional Standards

**Type of Investigation:**

**DPD Policy Section 1.2.1-** Members and employees shall not engage in any conduct which constitutes neglect of duty, conduct unbecoming of a member or employee, or any act which is likely to adversely affect the discipline, good order, or reputation of the Department.

**DPD Policy Section 1.8.2-** A person shall not be arrested or detained except as provided by law.

**DPD Policy Section 1.8.15-** No member or employee shall knowingly falsify any official report or enter or cause to be entered any inaccurate, false, or improper information on any document, used and/or maintained by this department.

**DPD Policy Section 3.5.30 -** A member is required to respond to all inquiries made during an interview. The member has the obligation to answer all questions truthfully.

**DeLand Police Department Special Order 18-12 #1 Standards of Conduct Law Enforcement Code of Ethics, Paragraph 3:**

I vow to be fully truthful and honest in my dealings with others. I deplore lies and half-truths that mislead or do not fully inform those who must depend on my honesty. I will obey the very laws that members of my police department are sworn to uphold. I will seek affirmative ways to comply with the standards of my agency and the lawful directions of my superiors.

## **DeLand Police Department Special Order 18-12 #2. Conduct Unbecoming an Officer**

### **C. Integrity**

1. The public demands that the integrity of its law enforcement officers be above reproach, and the dishonesty of a single officer may impair public confidence and cast suspicion upon the entire department. Succumbing to even minor temptation can be the genesis of the malignancy, which may ultimately destroy an individual's effectiveness and may contribute to the corruption of countless others. An officer must scrupulously avoid any conduct, which might compromise the integrity of himself, his fellow officers, or the department.

### **Complaint Summary:**

On January 28, 2019, the DeLand Police Department received a certified notice from the Office of Attorney Donald B. Dempsey, advising he had been retained to represent the interest of Joseph Stapf, as it relates to Stapf's arrest by an officer of the DeLand Police Department. The letter was a formal demand to preserve and not alter any video recordings, documents, or other items of evidence in connection to the incident which occurred on January 20, 2019, reference case#DL190000531. Due to current policy and procedures for video redactions, Lieutenant Millan reviewed all reports, affidavits and BWC (Body Worn Camera) footage pertaining to the above mentioned case. The BWC videos captured the entire incident which brought concerns for the way the investigation transpired and the actions that led to the arrest of Mr. Stapf. The information was then forwarded to Deputy Chief Gary Batten and Chief Jason Umberger for further review. Chief Umberger reviewed the circumstances and immediately ordered an Internal Investigation to look into the incident.

The call history shows LaFleur arriving on scene at 208 North Woodland Blvd (The Boulevard Bar) at 00:55:06 hours and making contact with two employees on the sidewalk in front of the business. The employees point to a third male subject later identified as Joseph Stapf who was also standing on the sidewalk. Stapf was identified as the subject who had been causing the problem and according to employees had a knife in his front pants pocket. For officer safety purposes, LaFleur tells Stapf to place his hands behind his back and goes to place him in handcuffs. Stapf appeared under the influence of an unknown substance and was unsteady on his feet. LaFleur had to tell Stapf to walk over to a wall in a recessed alcove and then to place his hands behind his back several more times as Stapf seemed confused and appeared to be asking what was happening. Once secured in handcuffs, LaFleur walked Stapf over to his patrol car and tells Stapf, "You're just being detained right now." At that time, according to the call history, Officer Goins arrived on scene at 00:55:42 hours (36 seconds later) and exited his patrol car to assist LaFleur.

LaFleur tells Goins that Stapf is detained and that he was involved in an altercation with the bartender and asks Goins if he has Stapf so LaFleur can go find out what was going on. LaFleur walked back over to employees and asked what happened. The employees told LaFleur that Stapf was just getting drunk and was asked to leave several times at which time he refused and asked the employee if he wanted to step outside. According to the employees they thought that Stapf may have touched another customer

but then stated that he may have only tapped the customer. LaFleur asked if Stapf had hit anybody and the employees stated that he had not. LaFleur then asks the employees, "So he hasn't broken the law?" The employees replied, "No." LaFleur asked the employees if they just wanted to issue a trespass warning and they stated that they did. LaFleur told employees that he was going to go start the trespass warning and stated, "He's not going to go anywhere we are going to let him go."

At that time LaFleur's BWC footage shows him walk back over to his patrol car where Goins was still standing by with Stapf. Goins immediately asks LaFleur, "27-A?," which means trespass warning being issued. As LaFleur answers, "Yes," Goins immediately says, "I've got narcotics on him, he had cocaine in his back pocket." Goins then instructs Stapf to get into the backseat of the patrol car. Via his portable radio LaFleur then asks dispatch for two case numbers, one for 27-A (Trespass warning) and one for narcotics. There is no mention of a charge for resisting arrest without violence. Goins then told LaFleur something to the affect that he went to pat Stapf down and he pulled out two baggies. LaFleur then transports Stapf back to the police department while Goins says that he will take care of filling out the trespass warning.

Goins BWC footage confirmed that as he first arrived on scene and walked towards LaFleur, LaFleur already had Stapf in handcuffs and was walking him towards LaFleur's patrol car. Due to Goins BWC being attached to the front chest area of his uniform shirt the arrival footage mostly shows the dash of his patrol. LaFleur and Stapf cannot be seen in the footage until Goins gets out of his patrol car. The other relevant BWC footage is from Goins when LaFleur leaves to walk back over and make contact with employees from the business. Goins asks Stapf some questions and tells him, "I am just going to secure you right now...we are trying to figure out what's going on." As Goins continues to ask questions about what had occurred, Goins again tells Stapf, "You're just being secured, you're not under arrest." As this conversation is occurring Goins is searching Stapf. The small knife which was the item of concern for officer safety appears to have already been removed from one of Stapf's pockets and was placed on the trunk of LaFleur's patrol car. Goins continues to search and other personal items that appeared to be money, keys, wallet etc. that were removed from Stapf's pockets can also be seen being placed on the trunk by Goins. As conversation continues and Goins continues searching Stapf's pockets Goins states, "Well right now you're going to be under arrest for narcotics that I found in your back pocket."

LaFleur walked back over to Goins after talking to employees and a short time later left the scene with Stapf to transport him back to the police department. Goins BWC footage shows him get into his patrol car and deactivate the audio on his BWC. He picks up his cell phone and the phone screen is visible as Goins places a call to Lt. Mathis and has a conversation that was not recorded. (Note – this detail was not discovered until later in the investigation after the previous interviews with Goins and Mathis. Goins was questioned about the details of this phone call in his second interview.) Goins completed the trespass warning, reactivates the audio on his BWC and makes contact with the business employees who originally reported the incident. While having one of the employees sign the trespass warning Goins tells the employees, "Stapf is going to jail for narcotics. Goins then clears the call.

After reviewing the officers BWC footage and identifying concerns with this incident Lieutenant Millan reviewed all associated documents including LaFleur's arrest affidavit and the supplement report completed by Goins. In the arrest affidavit LaFleur wrote the following, "*As I attempted to investigate the disturbance Stapf appeared to be intoxicated and was being belligerent. Stapf did not obey my lawful verbal command and was argumentative. Stapf began to walk towards me and continued to not obey my lawful commands. After Stapf refused to obey my verbal lawful commands I attempted to take physical control over Stapf by grabbing his arm. Stapf then pulled away from me. Stapf was placed into handcuffs that were checked for tightness and double locked. While conducting a search of Stapf*

*incident to arrest, Officer Goins located two plastic bags containing a white powdery substance and I located a knife in his right pocket.”*

In comparing LaFleur’s report and arrest affidavit with his BWC footage, his sworn account of the incident was not factual. *“As I attempted to investigate the disturbance Stapf appeared to be intoxicated and was being belligerent.”* LaFleur’s BWC footage showed him approach the employees and Stapf on the front sidewalk of the business. As employees pointed to Stapf as the subject causing the problem, LaFleur immediately told Stapf who was standing with his hands in his pockets to put his hands behind his back. Stapf was not being belligerent nor had he said anything at that time in LaFleur’s presence. Stapf immediately turned around and LaFleur grabbed Stapf by his left arm. LaFleur appeared to instruct Stapf several times to put his hands behind his back as Stapf appears intoxicated and unsteady on his feet. It was unclear if Stapf was trying to walk away but it did not appear that he ever broke the grasp that LaFleur had on his left arm. *“Stapf did not obey my lawful verbal command and was argumentative.”* Stapf appeared confused and was asking, “What happened...what’s happening?” He is slurring his speech in a low volume and it is hard to make out what he was saying. *“Stapf began to walk towards me and continued to not obey my lawful commands.”* At no time on the video footage was Stapf seen walking towards LaFleur. *“While conducting a search of Stapf incident to arrest, Officer Goins located two plastic bags containing a white powdery substance.”* Based on the officers words and actions during the incident it did not appear that the search was incident to arrest. To the contrary both officer told Stapf that he was only being detained. Goins additionally told Stapf that he was not under arrest while he was actively searching inside Stapf’s pockets. After confirming with employees that, “No laws were broken,” and they only wanted to issue a trespass warning, LaFleur told them “He’s not going to go anywhere we are going to let him go.” Based on the facts, it did not appear that there was any intention on the part of LaFleur to arrest and charge Stapf with Resisting an Officer without Violence prior to discovering that Goins had searched Stapf and found suspected narcotics. LaFleur wrote in his report that he located the knife in Stapf’s front pocket. Goins wrote in his report that he was the one who found the knife in Stapf’s pocket. A review of LaFleur’s report showed that he charged Stapf with Resisting Arrest without Violence to justify the search, Possession of Drugs and an additional charge of Disorderly Conduct. There were no elements for a disorderly conduct charge observed in the officers BWC footage. The officers were instructed by Lt. Mathis after the fact to go back to the business and obtain written statements from staff.

In a review of Goins supplement report, he wrote: *“Upon arrival I observed LaFleur talking to an unknown white male (later identified as Joseph Stapf by Fl DL) and Stapf then turned away from Officer LaFleur in an attempt to walk away from LaFleur. I observed Officer LaFleur grasp Stapf by his left arm and Stapf pull away from him causing Officer LaFleur to lose his grasp on Stapf. Officer LaFleur was able to secure Stapf in handcuffs.....I noticed a folding knife in Stapf’s front right pocket and secured the knife. I continued to search Stapf and located two small clear bags that contained a white powdery substance.”* Further review of LaFleur’s BWC footage on the far left side of the screen (not easily noticeable), it captured Goins arrival on scene. (Note – this detail was not discovered until later in the investigation after the first interview with Goins. In comparing Goins report to the video footage it shows Goins was approximately one to two blocks away on a dark rainy night with parked cars, trees and columns along Woodland Blvd. that would have obstructed his view at the time LaFleur first went to handcuff Stapf. LaFleur had also walked Stapf over into the edge of a recessed alcove at the time of handcuffing which would have further obstructed Goins view. It did not appear of LaFleur’s BWC footage that Stapf ever broke LaFleur’s grasp on his left arm.

Additional research revealed that the State Attorney’s Office dismissed all charges against Stapf. In order to find out the reason for the dismissal of the charges, Lieutenant Millan contacted Amy Walker who was the Assistant State Attorney assigned to the case. According to Walker, the case never got to

the point of addressing a possible unlawful search as she dismissed the charges immediately after watching Officer LaFleur's BWC footage due to the fact that she felt there was insufficient probable cause for the arrest and there were discrepancies in the affidavit that contradicted the series of events that took place during the encounter in the WBC footage.

### **Areas of Concern**

1. Was Stapf simply being temporarily detained pending further investigation or was he under arrest at the time that Goins conducted the search and found the suspected cocaine?
2. Did Officers LaFleur and Goins falsify information regarding the details of Stapf's arrest in the arrest affidavit and incident reports?
3. Were Officers LaFleur and Goins untruthful while under oath during the internal investigation interviews?

All members interviewed were provided a copy of the Police Officers Bill of Rights, the Garrity Warning, and associated documents for review. All members took oath prior to the interviews.

### **Synopsis of Interviews with Lieutenant Nick Mathis:**

I interviewed Lieutenant Nick Mathis concerning an arrest made on January 20, 2019 by Officer LaFleur, who was assisted by Officer Goins, in reference to case# DL190000530. Mathis was the on-duty Lieutenant at the time of the incident. The following information was gained from Lieutenant Nick Mathis:

On January 20, 2019, Officers responded to a business located in the downtown area in reference to a disturbance. Lieutenant Mathis stated that shortly after officers arrived on scene, he heard an Officer come over the radio, advising they had a subject in custody. When questioned on whether the officers had notified him personally, Lieutenant Mathis responded by stating, "I spoke with them at some point." Lieutenant Mathis went on to say that he could not recall the details of the conversation but stated he remembered asking them, "What they had for an arrest." Lieutenant Mathis was also unable to provide an approximate time as to when he spoke with both Officers but stated, "It had to have been shortly after the arrest was made."

**Lieutenant Mathis-** "The way Goins explained it from what I recall, you know this is a conversation I didn't quote to memory. He explained that the guy was belligerent and so forth; fight, bar and all this good stuff and the small things that had occurred. He said he was in handcuffs, blah, blah, and I patted him down and found coke. I said well was he under arrest? What was going on? He said well yeah I guess with the other stuff, (Referring to the resistance he observed as he approached) he was under arrest and that's how we started discussing the difference between a pat down and a search. Being the fact whether somebody is under arrest or detained or there is a handful of different ways to explain it. That is kind of how that conversation got started. And then after that he went back, I sent him back to get statements from bar staff."

Lieutenant Millan: Did you or any supervisor review the affidavit before Officer LaFleur transported?

Lieutenant Mathis: I don't remember exactly if I did or if Erndl did; but it would have been reviewed.

Lieutenant Millan: So you aren't sure whether it was you or Corporal Erndl?

Lieutenant Mathis: I don't remember, too many affidavits and too much across my desk to remember exactly what was reviewed by me.

Lieutenant Millan: Did you review the BWC videos and did you see any discrepancies between the videos and the affidavit?

Lieutenant. Mathis: I did not view it.

Mathis stated that the BWC footage and the affidavit definitely had some discrepancies. Lieutenant Mathis went on to say that after watching the BWC from both Officers, he agrees that Officer Goins had conducted a search of his persons and not a pat down. It should be noted that Lieutenant Mathis stated that based on Officer Goins supplemental report, he must have assumed that Mr. Stapf had already been placed into custody based on the subject's actions during contact with Officer LaFleur.

### **Synopsis of Interview with Corporal David Erndl**

On February 20, 2019, I spoke with Corporal David Erndl, concerning an arrest made on January 20, 2019 by Officer LaFleur and Officer Goins, reference case# DL190000530. The following information was gained from Corporal David Erndl:

On January 20, 2019, Corporal David Erndl received a call from an employees he identified as, "George." Corporal Erndl stated that George had called him to report a disturbance in one of their establishments. Per Corporal Erndl, the information he received was that the subject was acting a little erratic and they just wanted the male to move along and or be trespassed. Corporal Erndl stated that George never mentioned anything about a weapon being involved. (It should be noted that the CAD history reads that the subject involved in the disturbance was possibly armed with a knife). Corporal Erndl went on to say that as soon as he got off the phone with George, he immediately called Officer LaFleur and informed him of the current situation and instructed him to stop by the business to check on employees and to handle any issues. Per Corporal Erndl, that was the only involvement he had with that particular call. Lieutenant Millan then asked Corporal Erndl, if either officer had reached out to him with concerns and or question regarding the event. Corporal Erndl responded by stating, "I never received a call from either of the officers involved but did hear when the officers came over the radio advising they had a male in custody."

**Corporal Erndl:** I've been kind of deemed and focused solely on training on the FTO side of the house.

**Lieutenant Millan:** Did you have a trainee that night?

**Corporal Erndl:** Yes, I've been training since I got promoted. So they want me to just simply focus on training until we get all of the guys pushed through and then we will be able to get focused on

supervisory things. I am kind of easing into it little by little if we have time then we will go over some things.

Lieutenant Millan then questioned Corporal Erndl, whether an officer is obligated to forward word documents to their immediate supervisors once an arrest is made, and/or prior to submitting their affidavits. Corporal Erndl responded by stating, **“Yes.”** Corporal Erndl advised that neither officers reached out to him after the arrest nor did any discussion take place concerning the incident. Corporal Erndl was unable to provide any further information concerning the incident.

With nothing further to contribute to the investigation, the interview was concluded.

### **Synopsis of first Interview with Officer LaFleur**

On March 29, 2019, I spoke with Officer Austin LaFleur, concerning an arrest made on January 20, 2019 by Officer Goins and self, reference case# DL190000530. The following information was gained from Officer Austin LaFleur:

On January 20, 2019, Officer LaFleur stated that he received a phone call from Corporal David Erndl, stating he needed to respond to a downtown business due to a disturbance. Officer LaFleur stated that Corporal Erndl had explained to him that, **“George”** had just called him about a male that was acting kind of erratic and needed law enforcement presence to try to get him (Subject) to move along. Per Officer LaFleur, the location of incident was not clear so he began heading towards the downtown businesses in an attempt to identify the location of the event. Officer LaFleur continued to state that shortly after he received the call from Corporal Erndl, Central Dispatch comes over the radio and identifies the location of incident as, **“The Boulevard,”** located at 208 North Woodland Blvd. Officer LaFleur stated that he arrived on scene within minutes of the call being dispatched and immediately made contact with employees of the business. Per Officer LaFleur, a male employee advised him that they believed the subject was armed with a knife and that the knife was in the subject’s front pocket. Per Officer LaFleur, employees immediately identify Mr. Stapf as the subject who was causing the disturbance. It should be noted that Mr. Stapf was a couple of feet behind employees as Officer LaFleur approached them. Per Officer LaFleur, he immediately notices the male subject placing his hands in his front pocket and, **“He kind of, I don’t want to say it was an aggressive posture, but he appeared to raise his shoulders a little bit and kind of stood up.”** Officer LaFleur stated that due to the subject possibly being armed with a knife and the fact that he was not sure how long it would be before backup arrived, he made the decision to place the subject in handcuffs. Officer LaFleur stated that he made the decision for the safety of all parties involved.

Per Officer LaFleur, **“As he attempted to place the subject into handcuff, the subject, pulled away and there was a little, I don’t know if you want to say scuffle or a little tugging of arms, and then I was able to put him in handcuffs and walk him over away from everybody else.”** Officer LaFleur stated that based on the subject’s actions of pulling away, he felt he had enough to charge him with Resisting Arrest without Violence. In addition, Officer LaFleur stated that he was also investigating a possible Battery charge against the subject for getting physical against an employee. Officer LaFleur stated that he mentioned to the subject that he was just being detained as a precautionary measure and a way to keep the subject calm before backup arrived. Per Officer LaFleur, **“He is a big guy, He is a big guy. He is bigger than I am and I don’t want any kind of altercation happening before somebody else was there. But at the same time he wasn’t just detained, he was under arrest for at least the resisting and finding out about the battery.”**

Officer LaFleur continued to state that he transferred the subject to Officer Goins, as he made his way back to employees to gather further details as to what had taken place. Per Officer LaFleur, the information gained was as follows: The subject (Mr. Stapf) was asked several times by employees to leave the business but the subject refused to comply and became verbally aggressive. In one occasion, the subject grabbed one of the employees, by the arm, which prompted employees to contact law enforcement. It should be noted that employees declined to pursue criminal charges against Mr. Stapf for Battery at time of incident.

Officer LaFleur went on to explain that even though employees wished not to move forward with the Battery charges, he believed in his mind that he had enough to charge the subject with Resisting Arrest without Violence due to his actions of walking and pulling away and refusing to respond to lawful orders.

Lieutenant Millan then questioned Officer LaFleur on the comment he made to Officer Goins, when he walked back to him after interviewing employees. Lieutenant Millan stated that in the video, he (Officer LaFleur) is clearly heard saying, "He had not broken any laws and that he was getting a trespass warning."

Officer LaFleur: I think I said that to the bar staff.

Officer LaFleur responded by stating, "What he had meant by that statement was that the subject had not broken any laws inside the establishment as the Battery was unfounded." Officer LaFleur continued to explain that, "Even though the Battery was unfounded, in his mind, he still had the resisting charges." Officer LaFleur went on to say that he didn't think the finding of the narcotics at the time was unlawful due to him having charges of, "Resisting."

Lieutenant Millan then questioned Officer LaFleur if he had mentioned anything to Officer Goins regarding the Resisting Arrest without Violence charge and/or the subject's actions at time of contact. Officer LaFleur responded by stating, "No." Officer LaFleur went on to say that he heard Officer Goins call out over the radio that he had one secured and thought nothing of it as he had in his mind the resisting charges. Officer LaFleur then stated that Officer Goins actions were nothing more than a bad assumption. (Referring to Officer Goins's decision to search Mr. Stapf before he had knowledge about his intention to file charges against Mr. Stapf). It should also be noted that Officer Goins supplemental report reads that he witnessed the resisting part of the arrest while approaching the scene of the disturbance.

Officer LaFleur continued by stating, "I believe that Officer Goins saw the resisting take place. I can't tell you obviously that Officer Goins knew that I arrested him (Mr. Stapf) for resisting but Officer Goins from what I believe observed the resisting and then Officer Goins went over the radio and said I believe it was 5C11 had one secured. Which in my mind dispatch knows we have one in custody and Goins called it out."

It should be noted that the CAD call history identifies officer LaFleur as the officer who announced having a person secured and not Officer Goins.

Per Officer LaFleur, the subject was taken back to the police station and placed in a holding cell while LaFleur completed the documentation/paperwork.



Lieutenant Millan asked Officer LaFleur to explain the difference between a pat down and a search and asked him to elaborate on his answer.

Officer LaFleur responded by stating that based on the information he received from dispatch regarding the subject being armed, he had a lawful right to detain the subject for his safety and the safety of others. Officer LaFleur went on to say that a pat down is not digging into people's pockets and that it is just that, "A pat down."

Lieutenant Millan then addressed the discrepancies between the video and the affidavit completed by Officer LaFleur. Lieutenant Millan questioned the series of events and how they were articulated in the affidavit compared to what the BWC footage displayed.

**Lieutenant Millan:** Did you see any discrepancy between the video and the affidavit?

**Officer LaFleur:** Yes, I did.

**Lieutenant Millan:** Can you talk about that?

**Officer LaFleur:** Yes. The affidavit in my chronological events, I put that, he (Subject/Mr. Stapf) appeared intoxicated and was being belligerent. He did not obey my lawful verbal commands and was argumentative. Looking back at the video, it was obvious that it did not happen. What I believe happened is once we got back to the sally port and the holding cells, the defendant was highly aggressive. He was in the holding cell yelling that he wanted to fight me and wanted to take me outside. It was constant and took me forever to write the report because he was just in there. I don't know if we have video and audio in there, if we can get that. He was punching the air and the holding cells. I believe what happened was when I was trying to write the affidavit I had all of this going on and I was by myself in the holding cell. I am not trying to make an excuse. It was wrong, I see that and I wish to learn from this and become a better officer. I was trying to remember what happened and that was going on. I think it just blended together is probably the best word.

Officer LaFleur went on to say that shortly after completing the affidavit for the charges of resisting arrest without violence and possession of cocaine, he requested the assistance of Officer Goins, due to the subject's actions of wanting to, "Fight Me." It should be noted that video was collected from Officer Goins BWC and there were no indications of the subject being belligerent and or aggressive toward the officers. It should also be noted that Goins was called to the sally port to help transport the subject to Officer LaFleur's vehicle. (Officers commonly request the assistance of their co-workers when transporting subjects to and or from their vehicle/sally port, when subject (s) display any kind of aggression).

Lieutenant Millan then questioned Officer LaFleur to determine whether Lieutenant Mathis and LaFleur had discussed the series of events that led to the arrest. Per Officer LaFleur, he had a brief conversation with Lieutenant Mathis in regards to the arrest but stated it was more of grammar issues than anything else. Officer LaFleur ended by stating he could have done things differently looking at the outcome of the investigation. Officer LaFleur went on to say that he could have communicated better with both Officer Goins and Volusia County Dispatch to avoid any confusion.

Lastly, Lieutenant Millan asked Officer LaFleur to explain the elements of resisting arrest without violence. Officer LaFleur response was clear and precise on providing the elements of the crime.

## **Synopsis of Interview with Officer Leslie Goins**

On April 30, 2019, I spoke with Officer Leslie Goins, concerning the incident on January 20, 2019, involving him and Officer LaFleur. The following information was gained from the interview:

On January 20, 2019, Officer Goins stated that he responded as a backup officer to a disturbance call at a business identified as, "The Boulevard," located at 208 North Woodland Blvd., to assist Officer LaFleur. The call was dispatched as a disturbance with the subject being possibly armed with a knife. Officer Goins stated that due to the nature of the call, he responded with lights and sirens. Officer Goins continued by stating that as he approached the business on North Woodland Blvd, he observed Officer LaFleur, "Step out talking to the subject and grabs the subject" (Referring to Mr. Stapf). Per Officer Goins, he observed Officer LaFleur grabbing the subject by his arm and the subject resisted by pulling away and breaking Officer LaFleur's grasp. Officer Goins stated that due to the subject's action, he was forced to park his patrol vehicle on the North bound lane, facing Southbound in an attempt on providing immediate assistance to Officer LaFleur. Officer Goins stated that Officer LaFleur managed to get the subject in handcuffs without further incident. Per Officer Goins, he exited his patrol vehicle and began making his way over to Officer LaFleur. Officer Goins stated that Officer LaFleur is observed trying to escort the subject towards the rear of his patrol vehicle and away from the complainants. Officer Goins stated that Officer LaFleur then handed the subject over to him and stated that he was heading back to speak with both complainants. Per Officer Goins, he immediately conducted a pat down on the subject and found a knife in the front right pocket. Officer Goins stated that he continued to pat the subject down for other stuff and, "What I mean by a pat down, I believe he was already under arrest". Officer Goins continued by stating, "In his prior Corrections experience, a pat down is referred as search and not just a pat down". Officer Goins stated that during the pat down (Search) he found two small plastic baggie containing a white powdery substance.

**Lieutenant Millan:** Why did you search him?

**Officer Goins:** Because I believed he was under arrest.

**Lieutenant Millan:** What made you believe that he was under arrest?

**Officer Goins:** From pulling away for resisting is what I believe it was.

**Lieutenant Millan:** Did Officer LaFleur mention anything to you when he handed the subject over to you.

**Officer Goins:** No, cause I called out with one secured.

When questioned as to why he called out with a subject secured and not in custody, Officer Goins responded by stating that his adrenaline was going and could not advise as to why. Officer Goins went on to say that unfortunately he is still using Correction Officer Jargon and that ten years was a hard habit to break.

Officer Goins went on to say that the reason he searched the subject was based on the observation he made when he first approached the scene of the disturbance, where the subject resisted Officer LaFleur. Officer Goins went on to say that he was acting under good faith and truly thought the subject was under

arrest. (It should be noted that Officer Goins assumed what actions Officer LaFleur was going to take against the subject for resisting).

**Lieutenant Millan:** Can you explain the difference between a pat down and a search?

**Officer Goins:** A pat down is the outer clothing, using your hands, not digging into pockets, Feeling for possible weapons and or firearms. And a search is actually physically going into pockets and different crevices and stuff like that.

When questioned as to whether he had reviewed the charging affidavit, supplemental report and BWC footage from the night in question, Officer Goins Responded, "Yes."

**Lieutenant Millan:** Did you see any discrepancies from the BWC footage and the affidavit?

**Officer Goins:** Yes, I noticed several things. He (Officer LaFleur) stated that as he located the knife and unfortunately I located the knife and I secured it or I grabbed it. He (Officer LaFleur) stated that he tested it. I tested it (Referring to the white powdery substance). That was the only thing I that I could see that was wrong with it.

**Lieutenant Millan:** Did you feel the subject was being belligerent at the time Officer LaFleur had custody of him or had detained him?

**Officer Goins:** I didn't hear nothing verbally, I only saw the physical part, and I never heard that portion.

Lieutenant Millan asked Officer Goins to clarify a statement he made to Officer LaFleur where he stated, "He's going to jail anyways, I found narcotics in his front pocket." (It should be noted that the statement made by Officer Goins was right after Officer LaFleur made the statement that the subject was only getting a trespass). Officer Goins kept insisting that based on his observations, he thought the subject was going to jail anyways. Officer Goins continued by stating that he believed that the statement that Officer LaFleur had made at the time of the incident was based on the outcome of the investigation pertaining to the disturbance/Battery. Officer Goins went on to say that he used a poor choice of words by saying, "He's going to jail anyways."

**Lieutenant Millan:** Did you discuss the arrest with Lieutenant Mathis?

**Officer Goins:** Yes

**Lieutenant Millan:** What was discussed?

**Officer Goins:** What I observed and what I located.

**Lieutenant Millan:** Why was the event/arrest brought up to Lieutenant Mathis?

**Officer Goins:** I always have that thing to notify my supervisors so that they aren't in the dark and they know what's going on.

Lieutenant Millan continued to question Officer Goins about the conversation he had with Lieutenant Mathis concerning the arrest. Lieutenant Millan asked Officer Goins as to why Lieutenant Mathis had

inquired specifically about the search and seizure. Officer Goins went on to explain that Lieutenant Mathis had asked him to explain the difference between a pat down and a search. When questioned as to why, Officer Goins responded by stating, "He just wanted to make sure we had done a lawful search". Lieutenant Millan again questioned Officer Goins as to what prompted Lieutenant Mathis to focus specifically on the pat down and search. Officer Goins stated that he explained that the reason he did the search was because he believed the subject was under arrest and that he wanted to clarify whether he was in the right. Per Officer Goins, Lieutenant Mathis asked him to explain the difference between a pat down and an arrest.

**Officer Goins:** If he's under arrest, it's a search. A pat down is for weapons outside of clothing.

**Lieutenant Millan:** Can you provide the elements of Resisting Arrest?

**Officer Goins:** Interfering with a lawful investigation, if I'm trying to put hand restraints and the subject tenses up, pulling away, running, verbally resisting a lawful command.

Lastly, Officer Goins went on to say that he was asked to come back to the holding cells to assist Officer LaFleur due to the subject's actions. Per Officer Goins, he assumed it was because the subject was being verbally aggressive towards Officer LaFleur.

After a thorough review of the statements given by Goins and LaFleur during their interviews and closely comparing their words and actions on the BWC footage, there was a concern that neither Goins nor LaFleur were being truthful with the statements provided. Additionally, further review of LaFleur's BWC footage on the far left side of the screen (not easily noticeable), it captured Goins arrival on scene. (Note – this detail was not discovered until later in the investigation after the first interview with Goins.) In comparing Goins report to the video footage, it shows Goins was approximately one and a half to two blocks away on a dark rainy night with parked cars along Woodland Blvd. that would have obstructed his view at the time LaFleur was handcuffing Stapf. These discrepancies created the need for a second interview with both officers and an opportunity to provide further clarification. A second interview was scheduled.

### **Synopsis of second interview with LaFleur**

On June 7, 2019, a second interview was conducted with Officer Austin LaFleur, in an effort to clarify some discrepancies in the statements he provided in his first interview. The following information was gained from Officer LaFleur:

Prior to the interview taking place, Officer LaFleur was given the opportunity to view his BWC video

- Lieutenant Millan began the discussion by questioning Officer LaFleur, in reference to his first interview statements. During the first interview, Officer LaFleur stated that he had advised the defendant that he was not under arrest, and that he was just being detained. Per Officer LaFleur, the reason he made that particular statement was to keep the subject calmed until a second unit arrived on scene to assist. This is contradicted by the fact that Officer LaFleur made that initial statement as he began walking the subject in the direction of Officer Goins who at that time was out of his vehicle and in very close proximity to LaFleur.

**Lieutenant Millan:** The information you provided is contradicting. Why? Can you explain why you claimed that the only reason you said the defendant was being detained was to keep things calmed until back up arrived.

**Officer LaFleur:** I was, I mean yes. I think in the video it looks like Officer Goins' car is behind mine at this point. But at the time we scuffled we were at the edge of a building and I was focused on him. I really wasn't realizing that Officer Goins' car is there at this time. And yes so I am still telling him he is detained. You can even hear him, he is being argumentative. It's all relevant to the same; he's a bigger guy, he's bigger than I am. Just because he is in handcuffs doesn't mean he can't start an altercation. And now he is in my custody. If he gets hurt, if I pile drive him to the ground while he is in handcuffs. That could be.

Lieutenant Millan continues by stating, "I understand what you are saying, but we are assuming this person is going to hit you. But that can happen at any time whether you are by yourself or with somebody else." Is that Correct?

**Officer LaFleur:** Oh, yes

Lieutenant Millan went on to play Officer LaFleur's BWC video footage, which clearly shows Officer Goins to be on scene. The video also captures audio, where Officer LaFleur, is heard telling the subject that he was just being detained. Lieutenant Millan asked Officer LaFleur to elaborate on his statement. Officer LaFleur stated that he was more focused on the subject and did not realize Officer Goins had already arrived on scene.

**Lieutenant Millan:** Why not just tell him he was under arrest if that was the case?

**Officer LaFleur:** I do not know if I recall actually visually seeing Officer Goins. I can see he's in the body cam. But while he's still argumentative, which you can hear, and he's not exactly cooperating. So my focus was on him. Whether it was tunnel vision, I can't tell you that. It's easy to Monday morning quarterback now.

**Lieutenant Millan:** Obviously we have to review the body camera.

**Officer LaFleur:** I can see what you are saying now. Yes, but at the time, what I am saying is, Officer Goins wasn't exactly what I was looking at. I was maintaining control of him is what I was focused on. So I don't know if that answers your question or doesn't answer your question.

Lieutenant Millan refocuses on the time of events that led to the arrest of Mr. Stapf. Lieutenant Millan questioned Officer LaFleur as to why he didn't question Officer Goins regarding the searching and finding of the narcotics on Mr. Stapf. Officer LaFleur responded by stating that he assumed Officer Goins had knowledge of the resisting, since he was the person to transmit over the radio, "I had one secured."

**Officer LaFleur:** And again, assuming makes an ass out of you and me, I got that.

Lieutenant Millan focuses on the case numbers that were issued in reference to the charges against Mr. Stapf. Officer LaFleur stated that he was asked by Officer Goins to get two case numbers, one for trespassing and the other for narcotics. When questioned as to why the narcotics and not the resisting, Officer LaFleur responded by saying that he was just going by what Officer Goins had asked him to do. Officer LaFleur went on to say that he was not really thinking about it at the time.

It should be noted that Officer LaFleur's BWC video also captured him saying to the staff, "So he hasn't broken the law" and that a trespass warning would be issued and Stapf would be cut loose.

With nothing further to contribute to the investigation, the interview was concluded.

### **Synopsis of second interview with Officer Leslie Goins**

On June 7, 2019, a second interview was conducted with Officer Leslie Goins. This interview was in an effort to clarify some discrepancies between the statements he provided during his first interview. There was also the additional discovery after the first interview that Goins approach and arrival on scene was captured on LaFleur's BWC and it did not appear that he could have witnessed the resisting arrest incident as described in his report. The following information was gained from Officer Goins:

Prior to the interview taking place, Officer Goins was again given the opportunity to view Officer LaFleur's BWC video.

Lieutenant Millan began the discussion by questioning Officer Goins regarding his first interview statements. During the first interview, Officer Goins stated that he observed Officer LaFleur grabbing the subject by the arm and the subject pulling away from him. Officer Goins stated, "I couldn't tell you how he pulled away from him, but he pulled away enough that I could see it." Officer Goins also stated, "that is the reason why when I pulled up how I did" (Referring to the manner in which he positioned his vehicle at time of arrival - facing north bound on the south bound lanes). Lieutenant Millan addressed the following inconsistencies; the fact that in his initial statement Officer Goins made claim that he witnessed the subject resisting Officer LaFleur, but that was inconsistent with Officer LaFleur's BWC video. Officer LaFleur's BWC demonstrates Officer Goins approaching the intersection of Rich Avenue and Woodland Blvd after the subject had already been handcuffed/detained. It should be noted that Officer LaFleur had first made contact with and went to place handcuffs on the subject approximately twenty nine seconds prior to Officer Goins arrival.-

**Lieutenant Millan:** On your first statement you claimed that you actually witnessed the defendant pulling away. Is that correct?

**Officer Goins:** Correct

Lieutenant Millan went on by explaining to Officer Goins that he was nowhere close to the location of incident when Officer LaFleur made contact with the subject (Mr. Stapf). This information was gained through Officer LaFleur's BWC video footage.

**Lieutenant Millan:** You are nowhere close to being able to witness that incident.

**Officer Goins:** Based on his body camera?

**Lieutenant Millan:** Based on his camera, correct.

**Officer Goins:** Based on his camera and not on what I saw.

Lieutenant Millan continued by stating that Officer LaFleur had already walked the subject to a business just south of the location of incident prior to Goins arrival. Lieutenant Millan asked Officer Goins to explain how he claimed to have witnessed the resisting and Officer Goins responded by stating, "I'm a precision marksman from the Dept. of Corrections. I can shoot out over 700 yards."

**Lieutenant Millan:** And you are saying you were able to see clearly that he actually resisted?

**Officer Goins:** Yes.

**Lieutenant Millan:** How far do you think that distance is from the time that you actually witnessed this? How far were you out that you are saying you were able to witness the entire incident?

**Officer Goins:** I don't know that exact answer. I don't know how many feet?

**Lieutenant Millan:** You were beyond Rich Avenue?

**Officer Goins:** Yes.

Lieutenant Millan again focused on Officer LaFleur's BWC video footage where Officer Goins is observed walking north bound on the sidewalk towards Officer LaFleur. The distance between Officer Goins and Officer LaFleur at that time of the BWC video was approximately thirty to forty feet. At such a short distance the visibility was limited and Officer Goins was merely a shadow. With that said, Lieutenant Millan recorded the distance from the location of incident to the intersection of Rich Avenue and Woodland Boulevard at one hundred and ninety three feet. Lieutenant Millan also measured further south from the intersection of Rich Avenue and Woodland Boulevard to a business located at 142 North Woodland, which provided a secondary distance of two hundred and thirty three feet. The above mentioned measurements, along with other factors such as time of morning, lighting, subject clothing, arrival time and Officer LaFleur's BWC, brings to question Officer Goins entire statement, where he claimed to have had a clear unobstructed view of the subject and Officer LaFleur at time of subject resistance.

Lieutenant Millan then refocused on the events that led to Mr. Stapf arrest. Lieutenant Millan questioned Officer Goins as to why the subject had been searched even after he was heard (on his issued BWC) telling the subject that he was just being detained and not under arrest. Lieutenant Millan continued by explaining to Officer Goins that he made a statement to the subject that now he was under arrest, but only after he searched the subject and found narcotics on his person. When Officer Goins was asked to elaborate, the following information was provided:

**Officer Goins:** I am going to tell him he's detained because he is questioning what is going on. I am going to tell him anything to calm him down. I am trying to calm the subject down. I don't want him to be irate and say you are going to jail. He just grabbed a bartender at that time I was told got into an altercation. I don't know what he's on and I don't know his mental state or his ability. Just because he is handcuffed doesn't mean he isn't going to fight me. He can kick me, he can head butt me, and he can bite me. I am going to tell him anything to calm him down.

**Lieutenant Millan:** Anything can happen and I understand that. That's obviously part of the job and I understand that anything can happen. But the person is already secured in handcuffs. Is that correct?

**Officer Goins:** Yes sir.

**Lieutenant Millan:** So when somebody is secured in handcuffs you basically tell them they are detained just to keep them calm?

**Officer Goins:** Yes sir until we find the totality of the whole what happened here. I am going to tell them anything to keep the situation calm. Our job when we arrive on scene is to secure the scene and keep control. So if I tell him; hey man, you are under arrest, we've had people kick out back windows. We've had people get irate. "Hey man, you are just being detained." Now they are calm down and we try to control the situation.

**Lieutenant Millan:** Understood, but at this time the situation is more or less controlled. He's handcuffed. Either way when you put him in the vehicle he's going to be handcuffed no matter what. He can kick out the window traveling from point A to point B. Am I right? So you are saying a person is being detained. You are telling this person he is being detained because you want to keep him calm?

**Officer Goins:** Correct.

**Lieutenant Millan:** Until you find out the totality of what is going on.

**Officer Goins:** I'm going to keep him until we figure things out. I'm going to tell him anything down to bring down his head. I don't have to tell him well you are under arrest for resisting this officer right here that I believe he is under arrest.

**Lieutenant Millan:** What made the difference of when you found the drugs for you to tell him now you are under arrest? You were in the same scenario where the person is handcuffed. Am I right? So the person is already handcuffed. What is the difference between you telling him he's detained and he's under arrest?

**Officer Goins:** At that time it was his mental state and his anger. He's calmed down as the video possibly shows.

**Officer Goins:** We were taught in the academy and from corrections we were always deescalating dealing with people; suicidal subject, homicidal subject, people that are irate trying to talk people down. There were a lot of mental health issues and anger issues just in general. People upset about the littlest things.

Lastly, Lieutenant Millan questioned Officer Goins on whether he had contacted Lieutenant Mathis while he was still at the scene of the incident. Officer Goins responded by stating, "Yes".

**Lieutenant Millan:** Do you remember what the conversation was about?

**Officer Goins:** I already stated that with the first interview.

With nothing further to contribute to the investigation, the interview was concluded.

**Conclusion:**



**1. Was Stapf simply being temporarily detained pending further investigation or was he under arrest at the time that Goins conducted the search and found the suspected cocaine?**

Although LaFleur had to tell Stapf several times to place his hands behind his back and there was slight resistance, it appeared that Stapf was intoxicated, confused and unsteady on his feet. There did not appear to be any active intent on the part of Stapf to defeat the officer's efforts. The resistance was so minimal that this fact, combined with discrepancies in the arrest affidavit, caused the State Attorney's Office to drop the charge for insufficient probable cause. Subsequently, the additional charges were also dropped. Once Stapf was secured in handcuffs, LaFleur walked Stapf over to his patrol car and tells Stapf, "You're just being detained right now." As LaFleur turned over Stapf to Goins, he tells Goins that Stapf is only being detained. After LaFleur walked back over to talk to staff, Goins tells Stapf, "I am just going to secure you right now...we are trying to figure out what's going on." As Goins continues to ask questions about what had occurred, Goins again tells Stapf, "You're just being secured, you're not under arrest." As this conversation is occurring Goins is searching Stapf. When Goins removes what he believed to be suspected cocaine from Stapf's pocket, Goins states, "Well right now you're going to be under arrest for narcotics that I found in your back pocket." Before walking back over to Goins and discovering that Goins had found the suspected cocaine while searching Stapf, LaFleur asked the employees if they just wanted to issue a trespass warning and they stated that they did. LaFleur told employees that he was going to go start the trespass warning and stated, referring to Stapf, "He's not going to go anywhere we are going to let him go."

The Officers' reports and the arrest affidavit are written in a manner to suggest that the search of Stapf's person was incident to arrest. Goins supplement report is focused on supporting an initial arrest charge of Resisting without Violence which he claims to have witnessed and believed Stapf to be under arrest before the search. BWC footage shows Goins to be a considerable distance away from the scene on a dark rainy night with parked cars obstructing the view at the time Stapf was reportedly resisting. LaFleur also walked Stapf partially into a recessed alcove which would have further obstructed Goins view. It is highly improbable, if not impossible, that Goins witnessed the elements for a resisting charge based on the darkness, rain, distance, visual obstructions and officer/subject wearing dark clothing. Goins version is especially unlikely in the detail that Goins described.

Lt. Mathis was questioned during his interview about his phone conversation with Goins following the arrest. According to Mathis, Goins explained that he, "Patted Stapf down and found coke. Mathis asked him, "Well was he under arrest? What was going on?" Goins replied, "Well yeah I guess with the other stuff, (Referring to the resistance he allegedly observed as he approached).

Based on the details of the BWC footage, the officer's actions and statements to Stapf and employees of the business, the evidence does not reasonably support the officer's claims that the search was incident to arrest. The preponderance of the evidence supports that Stapf was being detained pending further investigation at the time that Goins conducted a search of his person and found suspected cocaine. Also based on the facts, the charge of Resisting without Violence was after the fact in an attempt to make the search incident to arrest. LaFleur and Goins actions and words during this encounter that were captured on BWC footage would not lead a reasonable person to believe that Stapf was under arrest for resisting at the time the search took place. Furthermore, their words and actions do not support the fact that the initial intent was to arrest Stapf for Resisting Arrest without Violence.

**2. Did Officers LaFleur and Goins falsify information regarding the details of Stapf's arrest in the arrest affidavit and incident reports?**

In the arrest affidavit LaFleur wrote the following, *“As I attempted to investigate the disturbance Stapf appeared to be intoxicated and was being belligerent. Stapf did not obey my lawful verbal command and was argumentative. Stapf began to walk towards me and continued to not obey my lawful commands. After Stapf refused to obey my verbal lawful commands I attempted to take physical control over Stapf by grabbing his arm. Stapf then pulled away from me. Stapf was placed into handcuffs that were checked for tightness and double locked. While conducting a search of Stapf incident to arrest, Officer Goins located two plastic bags containing a white powdery substance and I located a knife in his right pocket.”*

In comparing LaFleur’s report and arrest affidavit with his BWC footage, his sworn account of the incident was not factual. *“As I attempted to investigate the disturbance Stapf appeared to be intoxicated and was being belligerent.”* LaFleur’s BWC footage showed him approach the employees and Stapf on the front sidewalk of the business. As employees pointed to Stapf as the subject causing the problem, LaFleur immediately tells Stapf who was standing with his hands in his pockets to put his hands behind his back. Stapf was not being belligerent nor had he said anything in LaFleur’s presence. Stapf immediately turns around and LaFleur grabs Stapf by his left arm. LaFleur does instruct Stapf several times to put his hands behind his back as Stapf appears intoxicated and unsteady on his feet. It is unclear if Stapf is trying to walk away but it does not appear that he ever broke the grasp that LaFleur had on his left arm. *“Stapf did not obey my lawful verbal command and was argumentative.”* Stapf appeared confused and was asking, *“What happened....what’s happening?”* He is slurring his speech in a low volume and it is hard to make out what he is saying. *Stapf began to walk towards me and continued to not obey my lawful commands.* At no time on the video footage was Stapf seen walking towards LaFleur. *“While conducting a search of Stapf incident to arrest, Officer Goins located two plastic bags containing a white powdery substance.”* Based on the officers’ words and actions during the incident it did not appear that the search was incident to arrest. To the contrary, both officers told Stapf that he was only being detained. Goins additionally told Stapf that he was not under arrest while he was actively searching inside Stapf’s pockets. After confirming with employees that, *“No laws were broken,”* and they only wanted to issue a trespass warning, LaFleur told them *“He’s not going to go anywhere we are going to let him go.”* Based on the facts, it did not appear that there was any intention on the part of LaFleur to arrest and charge Stapf with Resisting an Officer without Violence prior to discovering that Goins had searched Stapf and found suspected narcotics. LaFleur wrote in his report that he located the knife in Stapf’s front pocket. Goins wrote in his report that he was the one who found the knife in Stapf’s pocket. A review of LaFleur’s report showed that he charged Stapf with Resisting Without which would have justified the search along with Possession of Drugs and an additional charge of Disorderly Conduct. There were no elements for a disorderly conduct charge observed in the officers BWC footage.

In a review of Goins supplement report he wrote, *“Upon arrival I observed LaFleur talking to a unknown white male (later identified as Joseph Stapf by Fl DL) and Stapf then turned away from Officer LaFleur in an attempt to walk away from LaFleur. I observed Officer LaFleur grasp Stapf by his left arm and Stapf pull away from him causing Officer LaFleur to lose his grasp on Stapf. Officer LaFleur was able to secure Stapf in handcuffs.....I noticed a folding knife in Stapf’s front right pocket and secured the knife. I continued to search Stapf and located two small clear bags that contained a white powdery substance.....”* Further review of LaFleur’s BWC footage on the far left side of the screen (not easily noticeable), it captured Goins arrival on scene. In comparing Goins report to the video footage, it shows Goins was approximately one and a half to two blocks away on a dark rainy night with parked cars, trees and columns along Woodland Blvd. that would have obstructed his view at the time LaFleur was handcuffing Stapf. LaFleur also walked Stapf into a recessed alcove at the time he was handcuffed which would have further obstructed Goins view.

On the morning of July 10, 2019 at approximately 0500 hours Lieutenant Millan and Officer Vazquez went to the location of the arrest (208 N. Woodland Blvd.) to re-create the scene. It was dark outside, however, it was not raining like it was the morning of the incident so there was no glare from the wet pavement as there was at the time of the incident. Lieutenant Millan parked a marked patrol car in approximately the same position and location in which LaFleur's vehicle was parked at the time of the incident. The headlights were turned on and the overhead emergency lights were also activated just as on LaFleur's vehicle at the time of the incident. First, Officer Vazquez stood in the same location as LaFleur when LaFleur first attempted to handcuff Stapf and the same area that LaFleur indicated that Stapf pulled away from LaFleur. Lt. Millan drove south of the location and then approached the scene north bound on Woodland Blvd. in the same manner as Goins had approached. Millan used the location of 142 N. Woodland Blvd. as a reference point to start trying to see Vazquez. Note: 142 N. Woodland Blvd. is even closer to the scene than Goins was at the time that LaFleur went to place handcuffs on Stapf. This is based on LaFleur's BWC footage. While in front of 142 N. Woodland, Millan could not see Vazquez due to the darkness, columns and trees obstructing the view. When Millan arrived at the intersection of Woodland Blvd. and Rich Av., which was Goins location after LaFleur had already walked Stapf over to the alcove and had Stapf in handcuffs, Millan could still not see Vazquez, only a dark outline of Vazquez's hands as Vazquez waived them high above his head. Lt. Millan could not make out the movement of Vazquez's arms or body due to the darkness and visual obstructions. Vazquez and Millan then switched places and repeated the approach to the scene with Vazquez driving the patrol car. The same points of reference were used and Vazquez observed the same circumstances as Lieutenant Millan. Both Lieutenant Millan and Officer Vazquez concluded that it was impossible for Goins to have witnessed what he claimed to have witnessed in his report and in his Internal Investigation interview while under oath.

During his interview, LaFleur even admitted to one aspect of falsifying the documents by stating, **“The affidavit in my chronological events I put that, he (Subject/Mr. Stapf) appeared intoxicated and was being belligerent. He did not obey my lawful verbal commands and was argumentative. Looking back at the video it was obvious that it did not happen. What I believe happened is once we got back to the sally port and the holding cells, the defendant was highly aggressive. He was in the holding cell yelling that he wanted to fight me and wanted to take me outside. It was constant and took me forever to write the report because he was just in there. I don't know if we have video and audio in there, if we can get that. He was punching the air and the holding cells. I believe what happened was when I was trying to write the affidavit I had all of this going on and I was by myself in the holding cell. I am not trying to make an excuse. It was wrong, I see that and I wish to learn from this and become a better officer. I was trying to remember what happened and that was going on. I think it just blended together is probably the best word.”** The explanation was not reasonable for a police officer to put false facts in a sworn affidavit to attempt to embellish the elements of a crime.

Based on the totality of circumstances and the preponderance of the evidence, both officers falsified details in the incident reports and LaFleur in the arrest affidavit. Based on the officers' words and actions captured on the BWC footage and the recreation of the scene by Lieutenant Millan and Officer Vazquez, it is not reasonable to conclude that the events unfolded as documented in the reports.

### **3. Were Officers LaFleur and Goins untruthful while under oath during the internal investigation interviews?**

The details described in both of the above areas of concern also relate to this question. Per Officer LaFleur during his interview, “As he attempted to place the subject into handcuff, he subject, pulled away and there was a little, I don't know if you want to say scuffle or a little tugging of arms, and then I

was able to put him in handcuffs and walk him over away from everybody else....based on the subject's actions of pulling away, I felt I had enough to charge him with "Resisting." In addition, Officer LaFleur stated that he was also investigating a possible Battery charge against the subject for getting physical against an employee. Officer LaFleur stated that he mentioned to the subject that he was just being detained as a precautionary measure and a way to keep the subject calm before backup arrived. Per Officer LaFleur, "He is a big guy. He is bigger than I am and I don't want any kind of altercation happening before somebody else was there. But at the same time he wasn't just detained, he was under arrest for at least the resisting and finding out about the battery."

Goins was already on scene and only feet away from LaFleur when he told Stapf that he was only being detained. When it was pointed out that his back up officer was already on scene, LaFleur stated that he was so focused on Stapf that he did not realize Goins was there. Contradictory to this explanation, when contact is made with Goins, LaFleur again tells Goins that Stapf is only detained. Stapf is in handcuffs, he is not actively resisting or being violent. The situation at that time was under control and LaFleur still did not advise Stapf or Goins that Stapf was under arrest for resisting.

When asked about confirming with employees that no laws had been broken, LaFleur stated "What I had meant by that statement was that the subject had not broken any laws inside the establishment as the Battery was unfounded. Even though the Battery was unfounded, in my mind, I still had the resisting charges." Officer LaFleur went on to say that he didn't think the finding of the narcotics at the time was unlawful due to him having charges of resisting. This explanation is contradicted by LaFleur telling the employees, "He's not going to go anywhere we are going to let him go."

In his interview Goins was confronted about the inconstancy of his location when he claimed to have witnessed Stapf resisting LaFleur's efforts. Goins stated that as he approached the business on North Woodland Blvd, he observed Officer LaFleur, "Step out talking to the subject and grabs the subject" (Referring to Mr. Stapf). Per Officer Goins, he observed Officer LaFleur grabbing the subject by his arm and the subject resisted by pulling away and breaking Officer LaFleur's grasp. Officer Goins stated that due to the subject's action, he was forced to park his patrol vehicle on the North bound lane, facing Southbound in an attempt on providing immediate assistance to Officer LaFleur.

In reviewing LaFleur's BWC footage, Goins patrol car is not even in the cameras range when LaFleur first went to handcuff Stapf. When Stapf was handcuffed and in custody, Goins vehicle is still a significant distance away. Other factors include the darkness, rain, distance, visual obstructions and officer/subject wearing dark clothing. LaFleur also walked Stapf into a recessed alcove at the time he was handcuffed which would have further obstructed Goins view. Refer to the details above concerning the recreation of the scene by Lieutenant Millan and Officer Vazquez. Based on the evidence, it is impossible that Goins witnessed the events documented in his report. He continued to stand by this claim during his interview stating that he had good eyesight and was a former sniper for the Department of Corrections and he could shoot out 700 yards. Goins stated that due to Stapf's resisting, he had to park on the wrong side of the roadway behind LaFleur's patrol car as there was a sense of urgency to assist LaFleur. It appeared that Goins parked in such a manner because LaFleur already had his vehicle positioned there. The BWC footage did not show any urgency as Goins casually got out of his patrol car and walked towards LaFleur and Stapf.

When questioned in his interview Goins was asked why, if he assumed Stapf was under arrest, would he tell him that he is only being secured and not under arrest. Goins stated, "I am going to tell him he's detained because he is questioning what is going on. I am going to tell him anything to calm him down. I am trying to calm the subject down. I don't want him to be irate and say you are going to jail. He just grabbed a bartender at that time I was told he got into an altercation. I don't know what he's on and I

don't know his mental state or his ability. Just because he is handcuffed doesn't mean he isn't going to fight me. He can kick me, he can head butt me, and he can bite me. I am going to tell him anything to calm him down." Goins went on to say that a subject may also try to kick the windows out of the patrol car if they are irate. The contradiction lies with the fact that as soon as Goins found the suspected cocaine, he had no issue with immediately telling Stapf that he was now under arrest. Again Stapf was handcuffed and the officer was in control of the situation. Stapf did not appear violent towards the officers and there were two officer on scene. Based on the evidence there is no plausible reason not to inform Stapf if he was under arrest. In his interview, Goins mentioned being taught de-escalation techniques in the police academy. It is not an industry standard in law enforcement training to tell a person they are only detained when they are actually under arrest.

Both officers denied having any discussion with each other after the arrest concerning the details or sequence of events. They also denied getting any assistance form Lieutenant Mathis or anyone else about how to complete the reports and affidavit.

Based on all of the facts as known and the preponderance of the evidence, the officers were untruthful and misleading while being questioned under oath during the internal affairs investigation.

### **Findings:**

**DPD Policy Section 1.2.1-** Members and employees shall not engage in any conduct which constitutes neglect of duty, conduct unbecoming of a member or employee, or any act which is likely to adversely affect the discipline, good order, or reputation of the Department. **SUSTAINED**

**DPD Policy Section 1.8.15-** No member or employee shall knowingly falsify any official report or enter or cause to be entered any inaccurate, false, or improper information on any document, used and/or maintained by this department. **SUSTAINED**

**DPD Policy Section 3.5.30 -** A member is required to respond to all inquiries made during an interview. The member has the obligation to answer all questions truthfully. **SUSTAINED**

**DeLand Police Department Special Order 18-12 #1 Standards of Conduct Law Enforcement Code of Ethics, Paragraph 3:**

I vow to be fully truthful and honest in my dealings with others. I deplore lies and half-truths that mislead or do not fully inform those who must depend on my honesty. I will obey the very laws that members of my police department are sworn to uphold. I will seek affirmative ways to comply with the standards of my agency and the lawful directions of my superiors. **SUSTAINED**

**DeLand Police Department Special Order 18-12 #2. Conduct Unbecoming an Officer**

C. Integrity

1. The public demands that the integrity of its law enforcement officers be above reproach, and the dishonesty of a single officer may impair public confidence and cast suspicion upon the entire department. Succumbing to even minor temptation can be the genesis of the malignancy, which may ultimately destroy an individual's effectiveness and may contribute to the corruption of countless others. An officer must scrupulously avoid any conduct, which might compromise the integrity of himself, his fellow officers, or the department. **SUSTAINED**

**Recommended Finding for Review:**

I, the undersigned, do hereby swear, under the 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.

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Lieutenant Juan Millan, Professional Standards