

**VOLUSIA COUNTY SHERIFF'S OFFICE
INTERNAL AFFAIRS**

REPORT OF INVESTIGATION

REPORT NUMBER: IA 18-015

PERIOD COVERED: October 6, 2018
DATE REPORTED: October 6, 2018
SUBJECT(S) NAME: Deputy Frederick Ray #8907
INVESTIGATING OFFICERS: Detective Glen Bennett #1452
BASIS FOR INVESTIGATION:

On October 6, 2018, Deputy Frederick Ray arrested Aimie Tyson in Seville, FL on several active warrants. Deputy Ray reportedly secured Ms. Tyson in handcuffs behind her back and placed her in the backseat of his patrol car. After being advised by Ms. Tyson it was hot in the backseat, Deputy Ray allegedly lowered the driver side rear window approximately halfway to allow for air circulation.

A short time later, Deputy William Kretzer, approached Deputy Ray's patrol car and observed the rear door open and Ms. Tyson missing from the backseat. Deputy Ray, who was seated in the driver seat with the door open, was unaware Ms. Tyson exited his patrol car.

A search for Ms. Tyson began; however, Deputy Ray allegedly failed to take prompt action in notifying Central Communications of the escaped prisoner, which delayed deputy's response in assisting in the search and apprehension. Furthermore, Deputy Ray allegedly never activated his BWC until he began searching for Ms. Tyson; therefore, he never capturing the arrest or circumstances leading up to Ms. Tyson's escape.

OFFENSES:

This investigation is relevant to an alleged violation of Department Standards Directives and Volusia County Merit Rules and Regulations:

Volusia County Merit System Rules and Regulations 86-453. *This violation may be sufficient grounds for disciplinary action ranging from oral reprimand to dismissal, depending on the seriousness of the offense and other circumstances related to the situation.*

- RE:**
- (1) Willful neglect in the performance of the duties of the position to which the employee is assigned.
 - (2) Disregard for or frequent violations of county ordinances, departmental policies and regulations including safety rules.
 - (10) Incompetent or unsatisfactory performance of duties.
 - (13) Any conduct, on or off duty, that reflects unfavorably on the county as an employer.
 - (21) Any other conduct or action of such seriousness that disciplinary action is considered warranted.

26.2.132 Job Knowledge and Performance- Failure to maintain required skills, knowledge and abilities within acceptable levels shall result in counseling, instruction or training. *(Violation subject up to a written reprimand.)*

26.2.5 Neglect of Duty- Neglect of duty offenses include any act, failure to act or instance wherein an employee ignored, paid no attention to, disregarded, failed to care for, give proper attention to or carry out the duties and responsibilities of their position whether through carelessness, oversight or neglect. *(Violation Subject up to a 5-Day Suspension)*

41.20.51 Body Worn Camera; Criminal Investigation Contacts- include, but are not limited to, the following circumstances *(Violation Subject up to a 5-Day Suspension)*

- RE:**
- A. Encounters with persons who are accused or suspected of crimes
 - C. During investigations of criminal acts and/or encounters in which the deputy is attempting to develop reasonable suspicion on the subject of the encounter
 - D. Vehicle searches, building searches, and searches for suspects

41.20.53 Body Worn Camera; Prisoners/Detainees- While a prisoner/detainee is secured in the back of a patrol vehicle and in the presence of the deputy (either stationary or transporting), the deputy shall continue to record using the BWC in accordance with the following procedures: *(Violation Subject up to a 5-Day Suspension)*

RE: B. Recordings shall continue while the deputy remains in the vehicle

INVESTIGATIVE SUMMARY:

On October 22, 2018, Chief Deputy John Creamer assigned the above incident to the Internal Affairs Unit. Deputy Frederick Ray was served with a Notification of Internal Investigation along with a copy of his Officer Bill of Rights. This report details the internal investigation conducted by Detective Glen Bennett. *(See Tab – B for Official Correspondence)*

Detective Bennett reviewed the Supervisor Inquiry (Inquiry), Sheriff's Office reports along with Body Worn Camera (BWC) video of the deputies involved. Sergeant Steven Edgecomb authored the Inquiry involving the escaped prisoner. *(See Tab – D for Supervisors Inquiry)*

On October 6, 2018 at approximately 5:16PM, Deputy Ray and Deputy William Kretzer went to an abandoned residence located at 1851 Barton Street in Seville, FL to locate two individuals with felony warrants. Once inside, the two individuals were identified, and placed into custody. Deputy Kretzer secured the handcuffs behind the back of the male subject as Deputy Ray secured the handcuffs behind the back of Ms. Tyson.

According to Deputy Kretzer's BWC video, it showed what appeared to be Ms. Tyson's right hand partially out of the right handcuff. This image appeared to prove Ms. Tyson's handcuffs, which were applied by Deputy Ray, might not have been in accordance with Sheriff's Office policy. Deputy Ray believed his BWC was activated during the incident. This was true; however, it wasn't until after Ms. Tyson escaped custody that Deputy Ray activated his BWC. There was no evidence of Deputy Ray activating his BWC prior to the beginning of the self-initiated event, which is required under Sheriff's Office policy and procedure. *(See Tab – H for BWC)*

After placing the handcuffs on Ms. Tyson, Deputy Ray escorted her to his patrol car, sat her in the backseat behind the driver, and closed the door. Deputy Ray then sat in the driver's seat, directly in front of Ms. Tyson and began writing his report. According to the Inquiry, while Deputy Ray was typing his report on the Mobile Data Computer (MDC), Ms. Tyson complained the backseat

was getting hot so Deputy Ray lowered the rear driver's side window to allow for more air circulation.

Deputy Ray's patrol car was equipped with a rear cage separating the front seat from the backseat and each rear side window had bars affixed to the inside. In addition, the door handles in the backseat were disabled in order to prevent the door from being opened. Each one of these features are in place to prevent occupants secured in the backseat from escaping.

A few minutes had passed since Ms. Tyson was placed in the backseat of the patrol car. Deputy Kretzer had gone back inside the abandoned home to collect items belonging to the two suspects and upon his return, noticed the rear driver's side door was open and Ms. Tyson missing. Deputy Kretzer advised Deputy Ray, who was seated in his patrol car with the door open, that Ms. Tyson was missing. Deputy Ray exited his patrol car and began searching for Ms. Tyson on foot before notifying Central Communications.

At approximately 5:44PM, Deputy Ray radioed Central Communications advising them of the escaped prisoner and it was not until approximately 6:00PM, that Deputy Ray first activated his BWC. It wasn't until a few days later Ms. Tyson was located and taken into custody.

Deputy Frederick Ray

On November 28, 2018, Detective Tara Burke and Sergeant Ryan Mills conducted a sworn recorded interview with Deputy Ray at the Justice Center in Daytona Beach, FL. The following is a summary of that interview:

Deputy Ray has been working for the Sheriff's Office since April 23, 2018. Prior to the Sheriff's Office, Deputy Ray had twenty-two years of prior law enforcement experience with the Daytona Beach Police Department (DBPD). Currently he is assigned to Court Services at the Justice Center in Daytona Beach, FL.

On October 6, 2018, Deputy Ray was working road patrol as part of an overtime detail in District – 2, Deland area. When he reported for duty, his shift supervisor advised him of the open felony warrants on two individuals located in an abandoned house in Seville. After receiving this information, he along with Deputy Kretzer, responded to the residence in an attempt to serve the warrants on the two subjects.

Upon arrival, the two subjects were located and Deputy Ray handcuffed Ms. Tyson behind her back. When he handcuffed her, he made sure to check the tightness of the handcuffs by placing a finger between the handcuff and wrist. Ms. Tyson was small in stature and with smaller individuals handcuffs maybe too large; however, Deputy Ray did not believe they were loose, *“No, I don’t think they were loose. No, not at all.”*

According to Deputy Ray, Ms. Tyson’s pants were tight, so he had her remove all the items from her pockets prior to placing her in the backseat of his patrol car. Deputy Ray never physically searched Ms. Tyson, *“...there was nothing that I could see. I mean I didn’t search her with my, so no I just put her in the back seat. [sic]”*

During this time, Deputy Ray believed he activated his BWC, *“I thought I did but obviously I didn’t so.”* It was not until after Ms. Tyson escaped that Deputy Ray looked to see if the BWC was activated, *“I should have turned it on...I looked to see if it was red [activation light], and it wasn’t and then I turned it on....”* According to Deputy Ray, he never had a BWC when he worked as a school resources officer with DBPD; however, he said he was familiar with the operation of those issued by the Sheriff’s Office. Being that Deputy Ray’s permanent assignment with the Sheriff’s Office was with Court Services, when he worked road patrol, he would utilize a loaner BWC from whichever district office he was working at.

According to Deputy Ray, while he sat in his patrol car with Ms. Tyson seated in the backseat, he recalled asking her questions and making conversation. Deputy Kretzer was outside his patrol car for a brief moment and went back into the abandoned residence for approximately seven minutes. Deputy Ray started typing his report and the conversation between he and Ms. Tyson stopped. A short time later Deputy Kretzer exited the abandoned house and saw the rear door to Deputy Ray’s patrol car open and Ms. Tyson missing. According to Deputy Ray, Deputy Kretzer asked, *“Where is she [Ms. Tyson].”* Deputy Ray explained it was, *“My fault. I was complacent.”*

Ms. Tyson was small in stature and was seated directly behind Deputy Ray, *“...I mean I’m not saying she ducked down into the seats, but no I did not put eyes back on her.”* Deputy Ray explained she was hot, *“...being the nice guy I am I let the window down but it had cages on it, not thinking that she’s gonna somehow get those cuffs on the front of her and get out... Obviously she had to get the cuffs or whatever and then reach out through the cage.”* Since the inside door

handle was disabled; utilizing the outside door handle would have been the only way to open the door.

While Deputy Ray was typing his report on the MDC, the radio was on and the air conditioner was blowing on high; however, he still felt he should have heard Ms. Tyson opening the door. Deputy Ray took responsibility for his actions, explaining to internal affairs detectives, “*I got complacent.*”

Deputy Ray was asked if he felt he violated the following Volusia County Merit Rules and Regulations as well as Sheriff’s Office policies:

Volusia County Merit System Rules and Regulations 86-453.

- (1) Willful neglect in the performance of the duties of the position to which the employee is assigned. YES
- (2) Disregard for or frequent violations of county ordinances, departmental policies and regulations including safety rules. YES
- (10) Incompetent or unsatisfactory performance of duties. YES
- (13) Any conduct, on or off duty, that reflects unfavorably on the county as an employer. YES
- (21) Any other conduct or action of such seriousness that disciplinary action is considered warranted. YES

26.2.132 Job Knowledge and Performance YES

26.2.5 Neglect of Duty YES

41.20.51 Body Worn Camera; Criminal Investigation Contacts

- A. Encounters with persons who are accused or suspected of crimes YES
- C. During investigations of criminal acts and/or encounters in which the deputy is attempting to develop reasonable suspicion on the subject of the encounter YES
- D. Vehicle searches, building searches, and searches for suspects YES

41.20.53 Body Worn Camera; Prisoners/Detainees

- B. Recordings shall continue while the deputy remains in the vehicle YES

(See Tab – F for Official Transcript)

CONCLUSION:

On December 12, 2018, this investigation was presented to the Sheriff and his staff. After review, Sheriff and his staff determined the following violations of department policies to be:

26.2.132 Job Knowledge and Performance SUSTAINED

26.2.5 Neglect of Duty SUSTAINED

41.20.51 Body Worn Camera; Criminal Investigation Contacts

A. Encounters with persons who are accused or suspected of crimes SUSTAINED

C. During investigations of criminal acts and/or encounters in which the deputy is attempting to develop reasonable suspicion on the subject of the encounter SUSTAINED

D. Vehicle searches, building searches, and searches for suspects SUSTAINED

41.20.53 Body Worn Camera; Prisoners/Detainees

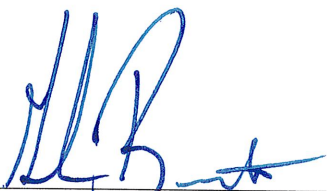
B. Recordings shall continue while the deputy remains in the vehicle SUSTAINED


On December 13, 2018, Deputy Ray was issued a Letter of Reprimand for his actions documented in this internal affairs investigation.

EXHIBITS:

- A. Report of Investigation
- B. Official Correspondence
- C. Administration of Oath/Perjury Warning
- D. Supervisors Inquiry
- E. Sheriff's Office Reports
- F. Official Transcript of Deputy Frederick Ray
- G. Miscellaneous Documents
- H. Digital Media

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

INVESTIGATOR:  DATE: 12/14/18
Detective Glen Bennett
Internal Affairs Detective

APPROVED BY:  DATE: 1/8/19
Chief Deputy John Creamer
SHERIFF MICHAEL J. CHITWOOD
VOLUSIA COUNTY FLORIDA