

**VOLUSIA SHERIFF'S OFFICE
INTERNAL AFFAIRS**

REPORT OF INVESTIGATION

REPORT NUMBER: IA 19-011

PERIOD COVERED: October – December 2019
DATE REPORTED: December 30, 2019
SUBJECT(S) NAME: Sergeant Jacob Kraker #7672
INVESTIGATING OFFICERS: Detective Glen Bennett #1452
Lieutenant Justin Sawicki #7179

BASIS FOR INVESTIGATION:

On December 6, 2019, Lieutenant Garey MacDowell authored a supervisor's inquiry on Sergeant Jacobs Kraker's alleged poor decisions and overall lack of supervision. The inquiry was a culmination of events that allege a multitude of incidents that led to this Internal Affairs investigation.

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.

(5) Violation of any reasonable or official order, refusal to carry out lawful and reasonable directions given by a proper supervisor, or other acts of insubordination.

(10) Any act of dishonesty, falsification, misrepresentation, concealment, or deception in any employment related matter.

(12) Incompetent or unsatisfactory performance of duties.

(14) Any conduct, on or off duty, that reflects unfavorably on the county as an employer.

(22) Any other conduct or action of such seriousness that disciplinary action is considered warranted.

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)*

26.2.12 Reporting for Duty- Absence from Duty without Proper Notification - Employees shall report for duty in accordance with their assigned work schedules and shall not be absent from duty without supervisor's authorization or having made proper notification. Employees who are unable to report for duty due to illness or other emergency shall cause notification of their supervisor not less than one hour prior to scheduled reporting time, whenever possible. *(Violation subject up to a 1-day suspension, with each day of unauthorized absence constituting an independent and continued violation)*

26.2.33 Inattention to Duties, Loafing, Sleeping - Employees shall be attentive to job duties and shall not neglect work by inattention, loafing, or sleeping while on duty. *(Violation subject up to a 1-day suspension)*

26.2.34 Failure to Follow Directive or Order - Employees shall adhere to all official Directives and/or orders, and shall faithfully execute all the duties and responsibilities of their assigned position. *(Violation subject up to a 5-day suspension)*

26.2.40 Negligence, Not Endangering - Employees shall not ignore or violate official Directives, orders, or supervisory instructions or knowingly fail to properly execute the duties and responsibilities of their assigned positions. *(Violation subject up to a 5-day suspension)*

26.2.106 Veracity- Untruthfulness - Employees shall not knowingly make false or untrue statements except as authorized in the performance of duties and as necessary to maintain covert operations during investigation of criminal activities. *(Violation subject up to dismissal)*

26.2.123 Insubordination Offense- Prompt Compliance With Lawful Order - Employees shall promptly execute the lawful orders and/or instructions of a supervisor or superior officer of the

VSO and shall not delay or fail to carry out such orders or instructions. *(Violation subject up to a 5-day suspension)*

26.2.124 Insubordination Offense- Compliance with Direct Order of a Superior or Competent Authority - Employees shall comply with the direct orders or instructions given by a supervisor or superior officer and shall not refuse to comply when such orders or instructions are lawful and proper. *(Violation subject up to dismissal)*

26.2.133 Job Knowledge and Performance- Repeated failure to maintain necessary skills, knowledge and abilities after counseling and instruction shall result in increasing the severity of disciplinary actions. *(Violation subject up to dismissal)*

26.2.134 Knowledge of Official Directives: VSO personnel are required to possess a sound working knowledge of the policies and procedures established by the Standards Directives. *(Violation subject up to a 5-day suspension)*

26.2.160 Job Knowledge and Performance- Supervisor Responsibility- Each supervisor shall provide guidance and training to subordinate staff for effective and efficient achievement of established goals and objectives. A supervisor has the responsibility and authority for assigning, reviewing, and monitoring activities of subordinate staff under his/her command. In addition, a supervisor shall provide clear directions to subordinates and address specific problems for completion of work assignments. The supervisor shall also ensure that assigned employees comply with applicable federal and state laws, Volusia County ordinances, and all VSO written direction as provided through Directives, Training Bulletins, policies and procedures. *(Violation subject to counseling and/or disciplinary sanctions up to and including demotion)*

INVESTIGATIVE SUMMARY:

On December 30, 2019, Chief Deputy Joseph Gallagher assigned the above incident to the Internal Affairs Unit for further investigation. This report details the internal investigation conducted by Detective Glen Bennett and Lieutenant Justin Sawicki.

Detective Bennett reviewed the Supervisor Investigation Report (SI) authored by Lieutenant Garey MacDowell along with other Sheriff's Office reports and related documents. Lieutenant MacDowell articulated in his SI multiple deficiencies with Sergeant Kraker's supervisory skills and failure to follow directives. Some of the deficiencies were involving the handling of a house party, failure to submit a report, inadequate supervision of a new deputy, and failure to follow an order regarding a denied training request.

Sergeant AJ Pagliari

On January 8, 2020, Detective Bennett conducted a sworn recorded interview with Sergeant Albert Pagliari at the Sheriff's Office Operations Center in Daytona Beach, FL. The following is a summary of that interview:

Sergeant Pagliari has been a member of the bomb squad since 2007, and currently holds the title of assistant bomb commander. The bomb squad, being a specialized unit, is considered a secondary responsibility within the Sheriff's Office; therefore, Sergeant Pagliari's primary duty assignment was supervising the Major Case Unit, which takes precedence.

According to Sergeant Pagliari, members of the bomb squad submitted training requests in September 2019 to attend the Central Florida Robot Rodeo, which was to take place at the Orange County Sheriff's Office on December 3rd – 6th, 2019. At the time, training requests would go through the bomb squad's chain of command prior to any notification being made to the bomb squad member's primary chain of command.

Sometime during the week of November 18, 2019, while attending a bomb training event at Camp Blanding, Lieutenant Schoeps advised Sergeant Pagliari, "*...that Captain Fortin had denied Sergeant Kraker the ability to attend what we were calling the robot rodeo [Orange County training].*" Because of the holiday season, Sergeant Pagliari waited to contact Sergeant Kraker to inform him of this information.

On December 1, 2019 at 10:12PM, Sergeant Pagliari texted Sergeant Kraker inquiring as to his availability to discuss the upcoming bomb squad training event in Orange County. At 10:22PM, Sergeant Kraker called Sergeant Pagliari's and the two engaged in a three-minute conversation. During this conversation, Sergeant Pagliari informed Sergeant Kraker, "*... [Lieutenant] Schoeps told me that Captain Fortin denied you...the ability to train for the robot rodeo.*" Sergeant Pagliari recalled his response being something to the effect, "*...that's interesting because I have an email from my chain of command saying that as long as I had coverage I could attend the training.*" Sergeant Pagliari, unaware of the timeline of events pertaining to the emails, advised Sergeant Kraker, "*I said if you have something that contradicts what I'm telling you in terms of you being able to train I would forward that to Kurt to Lieutenant Schoeps.*"

On December 4, 2019 at 6:33PM, Sergeant Pagliari received a phone call from Lieutenant Schoeps, who was in attendance at the training event, asking “...you did tell Sergeant Kraker that he couldn't attend the training?” Sergeant Pagliari's response was, “...I said yes I did and I referred back to the text message that I had...and I said I told Jacob [Sergeant Kraker], hey Kurt [Lieutenant Schoeps] told me that Captain Fortin told him that you're not supposed to attend the training.”

According to Sergeant Pagliari, he believed Lieutenant Schoeps had an in person conversation with Sergeant Kraker at the training event on December 4, 2019, since they were both in attendance. Sergeant Pagliari did not attend the training event; therefore, he was not present nor did he witness the conversation. Lieutenant Schoeps called Sergeant Pagliari to ascertain whether he informed Sergeant Kraker that Captain Fortin denied his training request, which Sergeant Pagliari confirmed and explained that notification was made on December 1, 2019 via phone conversation.

After explaining the notification of the denied training request, Lieutenant Schoeps advised Sergeant Pagliari that Captain Fortin wanted to speak to him. Soon after concluding his conversation with Lieutenant Schoeps, Sergeant Pagliari called Captain Fortin as requested.

At 6:45PM that same day, Sergeant Pagliari contacted Captain Fortin and advised him, “...the same thing I had told Lieutenant Schoeps and the same thing that I'm telling you [Detective Bennett]....That on December 1st I talked to, I sent a text to Sergeant Kraker it was about that robot rodeo and that Sergeant Kraker had called me in response...I was told that he Captain Fortin had told Lieutenant Schoeps that Jacob Kraker, Sergeant Kraker, had been denied training at the robot rodeo.” Sergeant Pagliari further informed Captain Fortin, that in response to being denied the training, “...Sergeant Kraker had said well I have some kind of email or some kind of proof saying that if I have coverage then I could attend.”

During the bomb squad training event at Camp Blanding, which took place November 18th – 22nd, 2019, Sergeant Pagliari recalled Sergeant Kraker mentioning something about a charging affidavit. Sergeant Pagliari stated, “...I do recall him saying he had to draft some kind of affidavit for some kind of incident he was going to work on that I believe.” Sergeant Pagliari did not see the affidavit and was unaware of its content.

Lieutenant Kurt Schoeps

On January 8, 2020, Detective Bennett conducted a sworn recorded interview with Lieutenant Kurt Schoeps at the Sheriff's Office Operations Center in Daytona Beach, FL. The following is a summary of that interview:

Lieutenant Schoeps has been with the Sheriff's Office since 2003 and is currently an assistant commander with the Investigative Services Section. As a secondary duty assignment, Lieutenant Schoeps serves as the bomb squad commander, a position he has held for approximately one year.

Sergeant Kraker completed the training request for the Central Florida Robot Rodeo on September 17, 2019. Lieutenant Schoeps initially approved the training request on November 14, 2019.

When Division Chief Brian Henderson took command, a new protocol was implemented regarding training requests originating from a secondary assignment; bomb squad. The new protocol required the training request be approved by the bomb squad member's primary chain of command in order.

In accordance with the new protocol, Lieutenant Schoeps addressed the bomb squad member's in attendance at the Camp Blanding training event from November 18th – 22nd, 2019. Since Sergeant Kraker was not under Lieutenant's Schoeps primary chain of command, he emailed Captain Fortin to verify Sergeant Kraker was permitted to attend the training event in Orange County on December 3rd – 6th, 2019.

Lieutenant Schoeps authored an email, dated November 21, 2019 at 11:24AM, asking Captain Fortin if he was aware of the training event in December and if he was going to approve the twenty-four hours of overtime in order to cover Sergeant Kraker's absence. At 11:43AM that same day, Captain Fortin replied stating he was not approving the request.

Upon being notified of training request being denied, Lieutenant Schoeps contacted his assistant bomb squad commander, Sergeant Pagliari, "*...I advised him [Sergeant Paglairi] to let Sergeant Kraker know he was denied for the training...That was done I believe on December 1st when Pagliari finally made contact with him.*"

According to Lieutenant Schoeps, after Sergeant Pagliari notified Sergeant Kraker, he reported back to him confirming his order had been carried out. During that same conversation, Sergeant Pagliari further advised Sergeant Kraker made mention, “...that he’s been talking to his Lieutenant [Lieutenant MacDowell] regarding just getting the overtime covered and that training would be allowed if the overtime was covered.”

Lieutenant Schoeps produced an email to Detective Bennett, dated December 1, 2019, which Sergeant Kraker forwarded to him. The email was part of a chain of emails, which originated on November 21, 2019, with Sergeant Kraker reminding Lieutenant MacDowell of the training event in Orange County, and that once he attained the appropriate patrol shift coverage, he would notify him. Lieutenant MacDowell responded back the following morning, “Please keep me updated on coverage.” Later that morning, Sergeant Kraker responded back to Lieutenant MacDowell with the dates and the name of the sergeant who was going to cover his patrol shift.

On December 4, 2019, Lieutenant Schoeps was at the training event in Orange County. When Sergeant Kraker arrived, Lieutenant Schoeps asked him about his attendance at the event since he was denied. According to Lieutenant Schoeps, Sergeant Kraker advised he was permitted to attend because he obtained coverage for his patrol shift; furthermore, “He advised me that he spoke to Lieutenant MacDowell prior to and then on that morning.” However, Lieutenant Schoeps was not certain how the communication was conducted, stating, “...he didn’t say verbally or through text or how he communicated with him.” Regardless of how the communication was conducted, according to Lieutenant Schoeps, Sergeant Kraker stated he engaged in some sort of communication with Lieutenant MacDowell, “On the way in,” to the training event that morning.

Later that evening, Captain Fortin and Lieutenant MacDowell contacted Lieutenant Schoeps in reference to Sergeant Kraker’s attendance at the training event. Lieutenant Schoeps stated, “They reached out to me and advised that Kraker was not given permission to attend the training and then he went on to say that he spoke to Kraker and Kraker advised that he was never denied by anybody on the bomb squad level to attend the training.” Detective Bennett asked if this was a factual statement; Sergeant Kraker was never denied the training by a member of the bomb squad chain of command, and he replied, “No absolutely not. He had the conversation with Sgt. Pagliari [assistant bomb squad commander] that he was denied the training on December 1st.”

According to Lieutenant Schoeps, during his discussion with both Captain Fortin and Lieutenant MacDowell, *“They were saying that they were having an issue with Sgt. Kraker on working both sides and that that’s how he was able to attend this training...As far as talking to Lieutenant Garey MacDowell with not going to Captain Fortin.”*

Lieutenant Schoeps, at the time, had no idea if Lieutenant MacDowell was aware Captain Fortin denied the training request back on November 21, 2019. Knowing Sergeant Pagliari had informed Sergeant Kraker he was denied to train on December 1, 2019, it was Lieutenant Schoeps understanding, while at the training event, that Sergeant Kraker likely worked something out with Lieutenant MacDowell, which permitted him to attend the training event, and, *“That’s how Kraker was spinning it to appear.”* Asked if he had any reason to believe Sergeant Kraker wasn’t being honest with him, Lieutenant Schoeps replied, *“I had no reason, no...I mean he’s a sergeant with the Sheriff’s Office on the bomb squad if I can’t trust him with that then, this is why we’re here I guess.”*

The bomb squad is a secondary duty, with the bomb squad’s primary duty taking precedence. Example being, should the commanding officer of a bomb squad member’s primary duty assignment deny any sort of training event, that bomb squad members attendance at said training event would not be permitted.

Lieutenant Schoeps explained, *“I mean looking back, you can definitely tell that you know it I mean we were being played whether it be you know lieutenant versus captain and then bomb commander and what not.”* Lieutenant Schoeps was asked if he felt Sergeant Kraker had utilized some sort of deception in order to attend the training event, and he replied, *“Absolutely. I think that’s 100% exactly what this is and deception would be a perfect term for the playing against lieutenant and captain and what not.”*

Lieutenant Kyle McDaniel

On January 10, 2020, Detective Bennett conducted a sworn recorded interview with Lieutenant Kyle McDaniel at the Sheriff’s Office Operations Center in Daytona Beach, FL. The following is a summary of that interview:

Lieutenant McDaniel is currently the night watch commander and has been since November of 2019. He is responsible for nighttime operations and is the highest-ranking deputy on duty, overseeing Sheriff's Office personnel.

On November 1, 2019, Lieutenant McDaniel received an email, authored by Captain Fortin, in reference to a house party that was to take place at 201 Williams Avenue in Orange City, FL on November 2, 2019. On Saturday, November 2, 2019, Lieutenant McDaniel was on duty and attended Sergeant Kraker's delta shift briefing at the District-6 headquarters.

Lieutenant McDaniel could not recall Sergeant Kraker specifically addressing the house party during the briefing. Lieutenant McDaniel himself recalled speaking to the deputy assigned to the patrol zone in which the residence was located. According to Lieutenant McDaniel, *"...I addressed the deputy, I asked what plan they had in place to deal with, address the email. He said, the deputy said he was gonna conduct extra patrols of the area. I said no, I said you need to leave here now and go and do a knock and talk of the house..."* Lieutenant McDaniel was asked if Sergeant Kraker was present when he spoke to the deputy, and he replied, *"Yes Sgt. Kraker was present and I believe it was Dep. Erlandson."*

Lieutenant McDaniel felt his recommendation of conducting a "knock and talk" was to, *"...get with the kids, get with the parents tell them we're not putting up with this, there's not gonna be any house party here."* Lieutenant McDaniel believed his conversation with Deputy Erlandson about the "knock and talk" was more of a suggestion rather than an order; however, knowing the suggestion came from a lieutenant, Lieutenant McDaniel believed he should have followed his direction. Sergeant Kraker, who according to Lieutenant McDaniel, was present for the conversation and agreed with his suggestion of the "knock and talk;" however, Sergeant Kraker did not offer any additional information.

Sergeant Jayson Paul

On January 14, 2020, Detective Glen Bennett conducted a sworn recorded interview with Sergeant Paul. The following is a summary of the interview:

Sergeant Paul was promoted to Sergeant approximately two months ago and is currently assigned as the Bravo shift patrol supervisor in District-6. Sergeant Paul has worked overtime to cover Sergeant Kraker's shift in the past. Sergeant Paul confirmed he worked overtime for Sergeant Kraker on December 4, 2019, after referring to his calendar where he logs all of his overtime. Sergeant Paul stated Sergeant Kraker offered both December 4, 2019 and December 5, 2019, shifts to him through an email and he responded he would cover both days for him. Sergeant Kraker stated he needed both days covered for a bomb class or bomb school he had to attend. Sergeant Paul advised he only ended up working the December 4, 2019, shift for Sergeant Kraker, as during his shift he received a phone call from Captain Fortin. Captain Fortin asked Sergeant Paul if he was working for Sergeant Kraker, to which he said yes and explained the situation. Captain Fortin advised Sergeant Paul he may not be working both days and explained there was some sort of miscommunication or error which occurred and Sergeant Kraker was not supposed to attend the class. Sergeant Paul advised he later received a message from Sergeant Kraker stating December 5, 2019, was cancelled for his overtime and he would be working his regular shift.

Sergeant Paul advised a few days prior to the overtime shift he had a conversation with Sergeant Kraker, Sergeant Kraker stated he had been approved to take the bomb class and he was supposed to go to the training, but then advised there were some issues at hand, as Captain Fortin advised him he could not go. Sergeant Kraker stated Captain Fortin advised he could not go, but he was already approved to attend, so he planned on attending. Sergeant Paul stated Sergeant Kraker had explained he was denied by Captain Fortin to go to the bomb training.

Captain Richard Fortin

On January 31, 2020, Detective Bennett along with Detective Jimmy Morgan conducted a sworn recorded interview with Captain Fortin at the Sheriff's Office administrative building in Deland, FL. The following is a summary of that interview:

Captain Fortin has been the commanding officer of the Sheriff's Office District – 6 headquarters in Debarry, FL since early 2018. His duties include overseeing all operations and personnel assigned to District – 6. Immediately under his command was Lieutenant Garey MacDowell, the assistant commander of District – 6.

On November 6, 2019, Captain Fortin and Lieutenant MacDowell held a meeting with Sergeant Kraker and Deputy Erlandson at the District – 6 headquarters. According to Captain Fortin, the purpose of the meeting was to address certain supervisory issues he and Lieutenant MacDowell had with Sergeant Kraker. As well as his, “...*lack of communication...or the type of communication*” between him and Lieutenant MacDowell. Other concerns included the manner in which Sergeant Kraker monitored his patrol shift, assuring the deputies under his command were carrying out their assignments and completing them on time, and how he communicated with Lieutenant MacDowell, communication Captain Fortin described as “*condescending.*”

One of the issues addressed during the November 6th meeting, was the way Sergeant Kraker handled a house party on November 2, 2019. Captain Fortin received an e-mail from the School Resource Deputy assigned to University High School, Deputy Michael Worlledge, where he provided information about a potential party at a residence located at 201 Williams Avenue in Orange City, FL. Upon reviewing the email, Captain Fortin determined the information was relevant enough to forward to his district sergeants to include all watch commanders.

Documented in the e-mail Captain Fortin provided further narrative, authorizing additional resources should they be needed. Captain Fortin described what additional resources were at Sergeant Kraker’s disposal, “*I mean the assets are unlimited really for the most part. You have those two districts [District 2 and 4] have access to CST teams, crime suppressions teams which is additional personnel.*” When asked about the use of additional resources and why none were utilized, Captain Fortin recalled Sergeant Kraker making a statement, “*I do recall something to the effect that he kept on going back to the fact what’s the deal we arrest, we made arrest we arrested them.*” The utilization of said resources is not uncommon and done often, according to Captain Fortin.

The first complaint called in about the house party was a noise complaint, which Sergeant Kraker put on hold, explaining the patrol units were busy. Following the noise complaint, the Sheriff’s Office was called a second time, and deputies responded, resulting in arrests on felony charges (Robbery and Burglary of a Conveyance). Captain Fortin was unaware of any proactive effort made by Sergeant Kraker’s patrol shift to address the house party.

The house party was located in 64 zone, which at the time was manned by Deputy Erlandson. In reviewing the Computer Aided Dispatch [CAD] report for the evening, Captain Fortin found no documented proactive measure taken by Deputy Erlandson at the location of the house party. In reviewing Deputy Erlandson's CAD report, Captain Fortin concluded there was a sufficient amount of time for him to conduct an extra patrol and knock and talk of the location.

Also in the November 06, 2019, meeting Captain Fortin ordered Sergeant Kraker to complete a charging affidavit for the homeowner of the house party. Sergeant Kraker did not complete the charging affidavit as requested. Captain Fortin said he wanted the document completed on the evening of November 06, 2019. The captain stated he directed Sergeant Kraker to complete the affidavit on November 06, 2019, but the sergeant failed to comply. Captain Fortin informed Detective Bennett that he did not receive the charging affidavit until November 20, 2019. Upon review of the affidavit the captain notated several errors. The month was incorrect as it indicated the incident occurred in October when in reality it occurred in November, the notary section also had the incorrect month and the notary failed to type their DID Number. Captain Fortin reiterated that Sergeant Kraker failed to follow a direct order with his lack of response to the house party and his failure to complete the charging affidavit on November 06, 2019.

Captain Fortin was asked if Sergeant Kraker properly supervised and addressed Deputy Erlandson's deficiencies. The captain stated, "*In my opinion no. Because where we're at I mean.*" The captain said on numerous occasions he or his lieutenant would point out Deputy Erlandson's issues to Sergeant Kraker; however, the sergeant would only respond by stating that he was "*working on it.*" Many of the issues with Deputy Erlandson were described as small things by Captain Fortin. However, when Sergeant Kraker was issuing Deputy Erlandson a Letter of Reprimand and a temporary reassignment to District-4 the deputy refused to sign the document and became enraged. Sergeant Kraker called Captain Fortin and asked if he could login and electronically sign the document for Deputy Erlandson. Captain Fortin informed the sergeant that could not happen and the captain would call Deputy Erlandson to speak to him regarding the LOR and transfer. After speaking with Captain Fortin Deputy Erlandson agreed to sign the document.

Captain Fortin was informed the next day by a person he could not recall, that during Deputy Erlandson's fit of rage when he was asked by Sergeant Kraker to sign the LOR the deputy punched

a wall inside the District-6 office. Captain Fortin said at no time during his conversation with Sergeant Kraker was he made aware the deputy had struck the wall.

Due to Deputy Erlandson's deficiencies Captain Fortin ordered that he be moved from 64 zone to 62 zone. The reasoning was to curb some of the behaviors such as failing to return driver's licenses, finishing reports on time, and other normal duties of a deputy. However, once the zone transfer occurred Captain Fortin discovered Deputy Erlandson was frequently conducting proactive patrols out of his zone in Orange City. Captain Fortin stated he ordered both Deputy Erlandson and Sergeant Kraker in the presence of Lieutenant MacDowell, to remain in 62 zone. Captain Fortin was asked if part of Sergeant Kraker's duties and responsibilities were to maintain control of Deputy Erlandson's whereabouts, his response was:

"Yes. That is, that is really largely in my opinion his duties. His duties are to supervise his personnel and make sure that you know calls are run you know basically smooth and if they need direction to give them direction."

Captain Fortin said the very next night after issuing the order he discovered Deputy Erlandson was oftentimes in 64 zone more than 62 and he felt that Sergeant Kraker and Deputy Erlandson defied his order.

The captain recalled another issue with Deputy Erlandson involving a traffic stop, in which Sergeant Kraker was on scene. Deputy Erlandson conducted a traffic stop on a vehicle with an attached tag not assigned. It was later determined that no one ran the Vehicle Identification Number (VIN) to determine if the vehicle was stolen. The vehicle was towed to C&S Towing in Orange City and approximately two weeks later it was determined the vehicle was reported stolen. Captain Fortin was provided with a copy of Deputy Erlandson's incident report and nowhere in the report did it indicate the VIN was run via FCIC/NCIC. Captain Fortin also confirmed that the supervisor who approved this report was Sergeant Kraker. Captain Fortin was asked if Deputy Erlandson and Sergeant Kraker mishandled the stolen vehicle complaint and he answered in the affirmative.

Captain Fortin was asked about a training request submitted by Sergeant Kraker on September 17, 2019, for a Bomb Squad training event occurring from December 03, 2019 to December 06, 2019. Captain Fortin expressed he denied the request from Sergeant Kraker, because of the overtime expenditures that would be accrued given his attendance. Captain Fortin said on November 21,

2019, he received an email from Lieutenant Schoeps inquiring about Sergeant Kraker's attendance at the training event. Captain Fortin responded to Lieutenant Schoeps indicating that he had denied the request due to overtime expenditures. Captain Fortin stated he was unaware of the email between Sergeant Kraker and Lieutenant MacDowell regarding coverage for his shifts during the training event. However, he did reaffirm that he denied and never approved the training request.

Captain Fortin informed detectives that Sergeant Kraker attended the training in Orange County. He was informed of this at the same time Lieutenant MacDowell was notified as they were in the office together. Captain Fortin then had Lieutenant MacDowell look into why Sergeant Kraker was attending the training event. Sergeant Jayson Paul was covering for Sergeant Kraker on the day he attended the training. Captain Fortin and Lieutenant MacDowell spoke with Sergeant Paul regarding how the events of the coverage transpired. Sergeant Paul indicated he was to work both days for Sergeant Kraker while he attended the training. However, when Sergeant Kraker was contacted the sergeant claimed he was only attending one day which contradicts the two day coverage.

According to Captain Fortin it was his understanding that Lieutenant MacDowell never approved Sergeant Kraker's training request. Captain Fortin was later informed that Sergeant Pagliari was the one who informed Sergeant Kraker his training request was denied by Captain Fortin. Captain Fortin confirmed that his authority supersedes that of Lieutenant MacDowell and his denial was the ultimate authority in the matter.

Captain Fortin was asked about Sergeant Kraker's annual evaluation and he said it wasn't until the fourth quarter that Sergeant Kraker's deficiencies as a supervisor were brought to light. The annual was a reflection of an "average" for all for quarters in the year and that is why he received an overall exceeds standards.

Lieutenant Garey MacDowell

On January 31st, 2020, Detective Bennett conducted a sworn recorded interview with Lieutenant Garey MacDowell at the Administration Office, DeLand. The following is a summary of the interview:

Lieutenant MacDowell is currently assigned as the Assistant District Commander of DeBary. Lieutenant MacDowell has been in the position for approximately six months and reports directly to Captain Fortin. Sergeant Kraker works as the Delta Shift Sergeant under Lieutenant MacDowell. Lieutenant MacDowell advised he was present at the counseling session with Deputy Erlandson and Sergeant Kraker on November 6th. Deputy Erlandson at the time was assigned to Sergeant Kraker's patrol shift. The meeting was held in Captain Fortin's office in District Six. Lieutenant MacDowell was asked why the meeting was put in place to which he responded,

"It was, I had kept notes of a lot of concerns, things that I had verbally discussed with Sgt. Kraker and at some points Dep. Erlandson of things that just were inadequate, derelict in their duties and basically not really performing at the level that I expected them to do and basically a lack of communication and respect for their chain of command."

Lieutenant MacDowell was asked about an incident involving a house party which took place on November 2nd, 2019. Lieutenant MacDowell was asked how he became aware of the house party. Lieutenant MacDowell advised,

"The captain had made mention of a house party that because we had received a tip from I believe it was Dep. Worlledge from University High I believe that's his location his main school that he is responsible for and the had a reliable tip I believe from a student indicating that this large house party would be taking place. The captain was concerned of maybe things that can evolve as house parties sometimes do. Underage drinking, and even elevated crimes so he put out an email further instructing the district sergeants that I'm attached to in the email list as well and watch commanders county watch commanders. I know at least those groups were attached with that email."

Lieutenant MacDowell advised the house party took place at 201 Williams Avenue, Orange City in 64 zone. Lieutenant MacDowell advised the following day after the party, he and Captain Fortin saw there was a robbery and multiple car breaks at the party. Lieutenant MacDowell contacted Lieutenant McDaniel who was the Watch Commander. Lieutenant McDaniel advised he attended a shift briefing with Sergeant Kraker and his patrol shift to discuss the house party. Lieutenant

McDaniel suggested they do a “*knock and talk*” or notify the owner to prevent any criminal activity.

Lieutenant MacDowell advised the email drafted from Captain Fortin also indicated that if additional resources were needed then contact could be made with the watch commander to pull them from District 2 and District 4. Lieutenant MacDowell advised the resources would range from extra deputies to the Crime Suppression Team. Lieutenant MacDowell was asked what would be the purpose of gathering extra deputies for a house party. Lieutenant MacDowell stated,

“Usually my experience with house parties that are large in gatherings you have not only criminal offenses taking place but you have a large volume of traffic leaving a residence to flee the scene that they’re at because of course you know there’s things misdemeanors, felonies, or ordinance violations or just simply people afraid that law enforcement presence is entering the property so they tend to hop in their cars and run. So you have traffic control issues you know potential accidents, all kinds of things happen at house parties it’s very well known.”

Lieutenant MacDowell was asked if Sergeant Kraker made any notations in his consolidated report. Lieutenant MacDowell stated,

“Yes he listed that he held a briefing I don’t think he elaborated too much on I mean it just basically you know Williams house party and he put EP’s business checks. So I mean he left it kind of vague but what I thought was kind of interesting to me is I notice when I read the consolidated report that an excess of over 100 plus 150 plus people which would also indicate a large volume of vehicles or what not. I think he actually gives a number to be honest with you 50 plus vehicles parked along the side of Williams and what not. So yes, that was something that kind of stuck in my mind and that I actually wrote down on a notepad.”

Lieutenant MacDowell was asked if Sergeant Kraker did any proactive work prior to receiving calls for service at the house party. Lieutenant MacDowell advised when they interviewed Sergeant Kraker he responded, “*I believe a vehicle drove by earlier in the shift.*” Lieutenant MacDowell advised Deputy Erlandson was 1D64 and assigned to that area. Lieutenant MacDowell

was asked if Sergeant Kraker's shift did any proactive work, other than the patrol vehicle driving by, which Lieutenant MacDowell responded "No." Lieutenant MacDowell further stated,

"I actually went over that with Sgt. Kraker and he shrugged his shoulders and said, "house parties things happen at house parties everybody knows that, we were busy" and I said, "yeah I believe there was one call that you put on hold if I'm not mistaken and then all of a sudden we have a robbery and car breaks." And he said, "look we can't control what happens at these house parties it's you know." And I said, "but if I'm understanding correctly Sgt. Kraker, Lt. McDaniel suggested that some type of enforcement whether it knock and talk notification should have transpired. Do you not recall him speaking with you on that or your shift?" And he said, "no I don't remember that."

Lieutenant MacDowell advised if a "knock and talk" were to have been conducted that may have possibly alleviated the issues occurring at the house party. Lieutenant MacDowell further advised it would have been a "great deterrent."

During the November 6th meeting with Sergeant Kraker, Captain Fortin and Lieutenant MacDowell, Sergeant Kraker was asked if he had probable cause to arrest the homeowner. Sergeant Kraker responded, in the affirmative. Since there was probable cause, Captain Fortin ordered Sergeant Kraker to complete the charging affidavit by the end of the shift. Lieutenant MacDowell was asked if Sergeant Kraker followed the order given by Captain Fortin. Lieutenant MacDowell replied "No, it was not." After a period of time Lieutenant MacDowell and Captain Fortin hadn't received the charging affidavit so Captain Fortin sent an email.

Lieutenant MacDowell advised shortly after they received the affidavit and pointed out a few issues with the document. Lieutenant MacDowell advised the date of the house party was listed as October 2nd as opposed to the actual date of November 2nd. Additionally, Lieutenant MacDowell advised Sergeant Kraker failed to print the name of the person and their DID in the notary section of the document. Lieutenant MacDowell advised they were unable to make out the signature, which could cause problems later when the case is prosecuted. Lieutenant MacDowell advised the document wasn't completed according to policy.

Lieutenant MacDowell advised Sergeant Kraker failed to do his job duties and “...*did not in my opinion do anything that was directed for him to do on the house party or in my opinion common knowledge or standard practice I should say was the proper wording I’d use to handle and deal with a large house party potentially occurring.*”

Lieutenant MacDowell was then asked about the issues surrounding Deputy Erlandson and the lack of supervision taken place with Sergeant Kraker. Lieutenant MacDowell advised they had numerous issues with Deputy Erlandson and his performance as a deputy which included BWC and overtime shifts. Lieutenant MacDowell recalled on one occasion Deputy Erlandson had a Driver’s License of an individual which he took in a traffic stop. Deputy Erlandson failed to turn the Driver’s License over to the owner and had to be asked several times to return the identification. Lieutenant MacDowell advised emails were sent to Deputy Erlandson instructing him to return the license. A phone call was also made by Captain Fortin to Deputy Erlandson ordering him to return the license. Sergeant Kraker was made aware of the license situation because Lieutenant MacDowell would cc’d him in the emails to Deputy Erlandson.

Lieutenant MacDowell was asked if Sergeant Kraker took the appropriate action to remedy the issues involving Deputy Erlandson. Lieutenant MacDowell advised Sergeant Kraker told Captain Fortin that he verbally counselled Deputy Erlandson on several occasions. Lieutenant MacDowell advised the counseling failed to fix Deputy Erlandson’s deficiencies. Due to the failure to fix the deficiencies Sergeant Kraker was told to issue him a letter of reprimand. Lieutenant MacDowell advised Sergeant Kraker failed to handle the task in a timely manner. Lieutenant MacDowell advised he estimated it took a “*couple weeks*” to complete. When Deputy Erlandson was presented the letter he refused to sign it.

Lieutenant MacDowell advised he started to hear from other deputies in the district of an incident surrounding the refusal to sign the letter of reprimand. Lieutenant MacDowell advised that when Deputy Erlandson refused to sign the letter of reprimand he became very upset and agitated. Deputy Erlandson became verbally abusive towards Sergeant Kraker and punched a wall causing a large picture frame to fall off the wall. Sergeant Kraker contacted Captain Fortin directly to tell him that Deputy Erlandson refused to sign the letter of reprimand. After a brief conversation with Captain Fortin, Deputy Erlandson signed the letter of reprimand. Lieutenant MacDowell advised

he was unsure why Sergeant Kraker did not send Deputy Erlandson home after the incident due to him being emotionally distraught.

The November 6th counseling session Erlandson was switched from 64 zone to 62 zone. Lieutenant MacDowell advised it was understood and clear that Deputy Erlandson was to stay in 62 zone and was ordered to stay out of 64 zone unless it was an officer safety issue. Lieutenant MacDowell followed up on Deputy Erlandson by checking his CAD history on November 7th and 8th. Lieutenant MacDowell stated he found seven times that Deputy Erlandson was out of his assigned zone and in the area of 64 zone. Two of the calls were a traffic stop one at 10:39 pm and another at 11:45 pm at the Quality Inn in Orange City. Lieutenant MacDowell stated that is not close to 62 zone.

On November 22nd, 2019, Stephanie Coleman called the Volusia Sheriff's Office in reference to her stolen vehicle being impounded at C&S Towing and accruing daily fees. Lieutenant MacDowell was asked about the incident. Lieutenant MacDowell advised Deputy Erlandson did a traffic stop on the vehicle and was towed at his request. Deputy Erlandson failed to run the vin number of the vehicle before it was towed which would have shown it stolen. The owner of the vehicle, Stephanie, was never notified of the recovery. Lieutenant MacDowell advised Sergeant Kraker was the shift supervisor during the call and was on scene. Lieutenant MacDowell stated the vehicle was never removed from NCIC/FCIC as being recovered. Only later after the vehicle was towed to C&S Towing did Orange City Police Department remove the vehicle as stolen. Additionally, a tag was found in the vehicle, which was never placed into evidence. Lieutenant MacDowell was asked if policy and procedure was followed in reference to the stolen vehicle, Lieutenant MacDowell stated "no." A review of the history of the report revealed it was approved by Sergeant Kraker in four seconds.

Lieutenant MacDowell was then asked about an incident involving a bomb training approval. Sergeant Kraker completed a training request on September 17th, 2019. The request was for a bomb training event in Orange County from December 3rd through December 6th of 2019.

On November 21st, 2019, at 10:00 am Sergeant Kraker authored an email to Lieutenant MacDowell as a reminder about the upcoming bomb training event in Orange County. Lieutenant MacDowell responded to the email advising Sergeant Kraker to make sure he had coverage. Lieutenant

MacDowell stated Sergeant Kraker has always been allowed to go to training and assumed his chain of command on the bomb team got the approval.

Lieutenant MacDowell was shown a separate email authored on the same day November 21st, 2019 at 11:24 am by Lieutenant Schoeps to Captain Fortin. The context of the email was asking if Sergeant Kraker was permitted to attend the training event, which Captain Fortin denied. Lieutenant MacDowell advised he wasn't aware of the email and was only made aware of the denial afterwards. Lieutenant MacDowell advised he didn't remember having any dialogue with Captain Fortin in reference to the denied training around the 21st.

On December 4th, 2019, Sergeant Kraker attended the bomb training in Orange County. Lieutenant MacDowell was asked did he ever give Sergeant Kraker verbal permission to attend the training event which he answered "no." Lieutenant MacDowell said he didn't have any further conversations about the training with Sergeant Kraker before the event.

Lieutenant MacDowell was asked when he was made aware of the denied training request. Lieutenant MacDowell stated, "*He [Captain Fortin] later on had mentioned I denied Jake going to a specialized bomb training course.*" Lieutenant MacDowell was asked when that occurred which he responded, "*I wanna say gosh was that I wanna say I remember him on the phone with Schoeps and I don't know exactly what day that was. It was well after the fact of my email.*" Lieutenant MacDowell was asked if he had any other correspondence with Sergeant Kraker reference the bomb training. Lieutenant MacDowell advised,

"I never had any dialogue in any way shape or form with Kraker about that Orange County rodeo event. The last I knew he was to get coverage and later at an unknown exact date whether it was the day before he went a couple days before he went or whenever it was, all I knew is that the captain was on the phone with Schoeps."

Lieutenant MacDowell confirmed that Sergeant Kraker responded to his email on November 22nd, 2019, stating that he had coverage for the days. Sergeant Kraker responded stating Sergeant Genao was going to work the 4th and Sergeant Paul was going to work the 5th. According to Lieutenant MacDowell sometime after Sergeant Kraker's e-mail Captain Fortin denied the training request.

Therefore, Lieutenant MacDowell assumed Sergeant Kraker would be reporting for his normal shifts on December 04 and December 05, 2019.

Lieutenant MacDowell stated it wasn't until he sent an e-mail to Sergeant Kraker on December 04, 2019, regarding the assignment of a deputy to the Debary City Hall meeting. Later in the day, Lieutenant MacDowell received an email response from Sergeant Jayson Paul indicating he was working for Sergeant Kraker on the 4th. The lieutenant later contacted Sergeant Kraker on December 04, 2019 at approximately 1800 hours, via telephone to ascertain why he attended the bomb training when he was denied. Sergeant Kraker said he was attending the training because it was his normal training day and he had obtained normal shift coverage. Sergeant Kraker then informed the lieutenant that he had no prior knowledge of being denied to attend the training. Lieutenant MacDowell stated this was contradictory to information he received in which Sergeant Pagliari notified Sergeant Kraker of the denial. When confronted with this Sergeant Kraker agreed to work his normal shift on December 05, 2019, and he continued to inform Lieutenant MacDowell that he had no prior knowledge of the denial.

Sergeant Jacob Kraker

On February 11, 2020, Detective Bennett along with Lieutenant Justin Sawicki conducted a sworn recorded interview with Sergeant Jacob Kraker at the Sheriff's Office Administrative Building in DeLand, FL. Also present during the interview was Mr. Gary Wilson as representation for Sergeant Kraker. The following is a summary of that interview:

Prior to this investigation commencing Sergeant Kraker was assigned to District – 6 Patrol in Debary and unincorporated Orange City since May of 2019 as the Delta shift supervisor. Sergeant Kraker was asked if he worked the weekend of November 01, 2019, in which Captain Richard Fortin forwarded an e-mail regarding a potential large house party within District – 6. The sergeant recalled working that weekend and confirmed the house party was at 201 Williams Avenue in Orange City. Sergeant Kraker also confirmed in the e-mail sent by Captain Fortin that the captain directed Sergeant Kraker to conduct extra patrols in the area of the party and to notify the Watch Commander if more resources were needed to address any incidents. Sergeant Kraker said he briefed his shift regarding the house party at the pre-shift briefing. The sergeant stated Lieutenant Kyle McDaniel was present at the briefing; however, Sergeant Kraker said he was not present

when Lieutenant McDaniel spoke to Deputy Erlandson regarding a knock and talk. According to Sergeant Kraker he knew nothing of a knock and talk being ordered until several days after the incident when Lieutenant Garey MacDowell and Captain Fortin questioned him regarding the incident. Sergeant Kraker was asked if he was going to have his shift conduct proactive patrols in the area and he stated, *"We would EP the area, keep an eye on the traffic."* When asked if any extra patrols were conducted, the sergeant said, *"As to my knowledge not in that direct, at that direct address, no."* Deputy Erlandson was directed by Sergeant Kraker at the start of the shift to drive by the area and it was determined at approximately 1800 hours there was no activity. Sergeant Kraker said he and his shift were in the area of the party handling calls for service and traffic enforcement; however, no one specifically went to 201 Williams Avenue to assess the residence for a large party after Deputy Erlandson did the initial drive-by. Deputies didn't respond to 201 Williams Avenue until they received a noise complaint. Upon arrival it was determined there was an armed robbery and a car break that had occurred at the party. Sergeant Kraker estimated there were 150 people and approximately 40 to 50 cars located at the house party. The investigation resulted in the arrest of three individuals. Sergeant Kraker was asked if a more proactive approach to the house party could have alleviated the incident from occurring and he said, *"Yeah I'm not I mean hypothetically what if? Sure. Have we ever done it in the past? No. I've never had to go preemptively. We get notices of parties and things all the time and we've never, me personally have never been tasked with or gone out and done a preemptive knock and talk."*

Sergeant Kraker recalled a meeting at the District – 6 Substation on November 06, 2019, present for this meeting was Captain Fortin, Lieutenant MacDowell, and Deputy Erlandson. One of the topics of the meeting was additional charges for the open house party. During this meeting Captain Fortin asked Sergeant Kraker to complete a charging affidavit in regards to the house party. However, Sergeant Kraker stated he was never officially ordered to complete the affidavit as he was going to call the legal advisor to determine if there was sufficient probable cause to submit the charge(s). According to Sergeant Kraker, Captain Fortin never ordered him to complete the affidavit he merely asked him to look into the issue to ascertain if probable cause existed. Sergeant Kraker stated he didn't receive an immediate response from the legal advisor due to the sergeant working nightshift. Sergeant Kraker said he made contact with Legal Advisor Peter McGlashan via telephone; however, he could not recall a date of the telephone call. It was determined there

was sufficient probable cause to file an affidavit. Sergeant Kraker informed Internal Affairs detectives he submitted the affidavit on November 19 or 20, 2019. The sergeant was asked why there was a delay in submitting the affidavit and he said, *“There was a lot going on and it just got it got I’m not gonna lie it got pushed back because I just forgot.”*

Another topic of discussion in the November 06, 2019, meeting was Deputy Erlandson’s performance. Sergeant Kraker described Deputy Erlanson as young, immature and makes mistakes; however, he is very proactive and likes to *“push the envelope.”* Sergeant Kraker was informed of the testimony given by Captain Fortin and Lieutenant MacDowell regarding Sergeant Kraker’s lack of supervision and training of Deputy Erlandson. Sergeant Kraker’s response to that was, *“...that’s the completely opposite message I was receiving. I was being told every day I was doing a good job.”* Sergeant Kraker said the only time Deputy Erlandson’s issues were brought up to him by his captain and lieutenant was at the November 06, 2019, meeting in which Captain Fortin informed Sergeant Kraker it was his shift and he could continue to manage it how he sees fit. Furthermore, the captain told him that he had the utmost respect and confidence in his decision making.

Another issue with Deputy Erlandson was his lack of response to e-mails. On numerous occasions Deputy Erlandson would not respond to work related e-mails from VSO employees/Command Staff, State Attorney Personnel, etc. One specific example is when Deputy Erlandson inadvertently retained a male’s driver’s license from a traffic stop. It wasn’t until Captain Fortin got involved that Sergeant Kraker had Deputy Erlandson return the male’s driver’s license. Sergeant Kraker said he typically was not “cc’d” on the e-mails to Deputy Erlandson; however, when he became aware of the lack of response to the e-mails he would address the issue. It should be noted the sergeant said he would only have verbal counseling with Deputy Erlandson regarding this issue and there wasn’t a chain of progressive discipline.

The next issue of Deputy Erlandon’s regarded a Letter of Reprimand (LOR) for a Body Worn Camera (BWC) violation. Sergeant Kraker was ordered by Captain Fortin to have Deputy Erlandson sign the LOR and inform him he was being transferred to District-4 desk duty. Sergeant Kraker said he met with Deputy Erlandson at the District-6 office. When the sergeant presented the LOR to Deputy Erlandson he refused to sign the document, because he was angry about the transfer. Sergeant Kraker said he informed Deputy Erlandson he was being ordered to sign the

LOR. Sergeant Kraker was asked if Deputy Erlandson became so enraged that he punched a wall knocking a picture off of the wall. Sergeant Kraker said at no time did Deputy Erlandson punch a wall during the meeting. When Deputy Erlandson refused to sign the LOR, Sergeant Kraker called Captain Fortin and informed him of the incident. Captain Fortin spoke with Deputy Erlandson and ultimately the LOR was signed by the deputy.

Captain Fortin and Lieutenant MacDowell determined due to Deputy Erlandson's deficiencies that he would move from 64 zone (Orange City) to 62 zone (Debary). After his zone assignment was changed it was determined that Deputy Erlandson would frequently vacate his zone and travel to 64 zone to conduct traffic enforcement. Sergeant Kraker said he addressed this issue several times with Deputy Erlandson; however, he also admitted to asking the deputy to come to Orange City with him [Sergeant Kraker] to conduct proactive work. When Sergeant Kraker was asked why he allowed Deputy Erlandson to vacate his zone he said, *"We move zones he still told me I have control of my shift and how I operate my shift. He [Captain Fortin] never ordered me to keep him in 62 zone."* Detective Bennett then recited a quote from Lieutenant MacDowell from his IA interview for this investigation. That quote was, *"I watched him look Kraker in the eye in the office, he's in 62 zone not to be in 64 zone."* Sergeant Kraker was asked why he did not monitor Deputy Erlandson more to be sure he was remaining in his zone. The sergeant responded by saying, *"I can't answer that."*

It was pointed out to Sergeant Kraker that the crux of the majority of this investigation was due to his alleged lack of supervision on Deputy Erlandson. Sergeant Kraker stated he had an opinion as to why he was the subject of the investigation; however, he did not want to divulge his thoughts. When asked what his opinion was the sergeant said:

"So someone told me that shit rolls downhill and that's what this is. That somebody is just passing the buck down the hill. Now did I make some mistakes? Sure, but is my supervisory the way I supervise and the way I run my shift different than others? Yes. I don't sit there and write everyone up for everything and that's what, should I have written him up for some stuff? Maybe, but I handled things my way that I thought was the right way to handle them and get more production out of him."

Sergeant Kraker denied that Lieutenant MacDowell specifically ordered him to keep Deputy Erlandson in 62 zone for the entire shift.

The next issue with Deputy Erlandson involved a fleeing vehicle with a bailout. Deputies made arrests and throughout the course of the investigation it was determined the tag attached to the vehicle did not belong to the suspect vehicle and a Virginia registration was located in the vehicle belonging to an uninvolved party to the incident. Initially Sergeant Kraker stated he told Deputy Erlandson to run the Vehicle Identification Number (VIN). However, later in his interview Sergeant Kraker recanted this statement and said that there was merely a conversation about the VIN and trying to identify the owner. Sergeant Kraker stated he later reviewed the charging affidavit and incident report completed by Deputy Erlandson. Sergeant Kraker said determining if the VIN was run or not is “...*not something that would stick out in a report.*”

At the conclusion of the investigation the subject vehicle was towed to C&S Towing in Orange City. Several weeks later it was determined the vehicle was stolen and Deputy Erlandson never ran the VIN the night of the investigation. The entire time from the night of the incident to it being determined the vehicle was stolen tow and lot fees were accruing. Sergeant Kraker said he never had an opportunity to speak with Deputy Erlandson regarding his failure to run the VIN as the deputy resigned in the meantime (it should be noted the registration for the vehicle was found in Deputy Erlandson’s mailbox at the District-6 office after his resignation). Sergeant Kraker again confirmed he reviewed and approved Deputy Erlandson’s reports that evening and he did not observe that the FCIC/NCIC VIN box wasn’t checked on the reports. Sergeant Kraker described this as an oversight on his part. It was determined Sergeant Kraker had deactivated his BWC prior to having the conversation with Deputy Erlandson. Sergeant Kraker said he deactivated the BWC, because his investigation had concluded and he was merely speaking with his deputies (due to the deactivation IA detectives were unable to confirm if Deputy Erlandson was told to run the VIN).

A Training Request Form (TRF) was submitted by Sergeant Kraker to attend a Bomb Squad training event in Orange County from December 03 to December 06, 2019. Sergeant Kraker said Lieutenant Kurt Schoeps approved the TRF. The sergeant informed detectives that Lieutenant Schoeps is the Commander and Sergeant AJ Pagliari is the Assistant Commander of the Bomb Squad. According to Sergeant Kraker, Sergeant Pagliari informed Bomb Team members of a change in how a TRF is approved. It would no longer be the Bomb Squad’s Chain of Command’s

responsibility; rather, it would be the member's primary Chain of Command. In Sergeant Kraker's case, his TRF's would be approved via Lieutenant MacDowell and Captain Fortin. Sergeant Kraker said he sent an e-mail to Lieutenant MacDowell and he carbon copied Captain Fortin on November 21, 2019, regarding Bomb Squad training in Orange County. Sergeant Kraker said he sent the e-mail to inform his chain of command he had coverage for the training in Orange County. Also on November 21, 2019, Lieutenant Schoeps e-mailed Captain Fortin, to determine if Sergeant Kraker would be approved to attend the training. Captain Fortin responded by stating "...given the short notice and required overtime coverage I am not approving this request." According to Sergeant Kraker he was never made privy to the e-mail thread between Captain Fortin and Lieutenant Schoeps, until just prior to his IA interview.

On December 01, 2019, Sergeant Pagliari contacted Sergeant Kraker and informed him that his primary Chain of Command had denied his Bomb Squad TRF. Sergeant Kraker told Sergeant Pagliari that he had an e-mail thread between him [Kraker], Lieutenant MacDowell, and Captain Fortin, indicating the sergeant had shift coverage. Sergeant Pagliari then instructed Sergeant Kraker to contact Lieutenant Schoeps for further clarification. Sergeant Kraker contacted Lieutenant Schoeps via text message on December 02, 2019. According to Sergeant Kraker he was told by Lieutenant Schoeps that the TRF was denied due to overtime. Sergeant Kraker said that the Bomb Squads training dates were changed so that the training in Orange County would count as normal training dates. At the conclusion of the text conversation with Lieutenant Schoeps, Sergeant Kraker said he had shift coverage and notified his primary Chain of Command of the coverage; however, he did not hear anything after that e-mail. Sergeant Kraker informed Lieutenant Schoeps that the response or lack of response from his primary Chain of Command gave him the perception that there was not a clear approval or denial. At this time in the text thread Lieutenant Schoeps states "*Sounds like an approval to me.*" Sergeant Kraker at this point felt he was approved to go to the training in Orange County.

Sergeant Kraker informed detectives that he feels the confusion came, because Lieutenant MacDowell had ordered the sergeant to not report to Captain Fortin; however, Captain Fortin informed him to circumvent Lieutenant MacDowell and directly report to him.

On December 04, 2019, while Sergeant Kraker was in Orange County Lieutenant MacDowell and the Sergeant had a telephone conversation. The conversation was described by Sergeant Kraker as

“normal talk.” The lieutenant never questioned Sergeant Kraker why he was in Orange County for training, they merely discussed normal business with in District – 6.

Later in the day there was communication from Lieutenant MacDowell to Sergeant Kraker requesting a deputy cover the Debary City Hall meeting at 1830 hours. During the conversation Lieutenant MacDowell asked Sergeant Kraker if he was working that day and the sergeant informed him he was in Orange County at training. Lieutenant MacDowell informed Sergeant Kraker he was denied by Captain Fortin and he would have to report to his normal shift on December 05, 2019. Sergeant Kraker continued to state that he never received a definitive notification that he was denied to go to the training.

Mr. Gary Wilson asked Sergeant Kraker about his latest evaluation (composed by Lieutenant MacDowell). The evaluation was an overall “Exceeds Standards.” It was pointed out that nowhere in the evaluation were the alleged discrepancies articulated. Sergeant Kraker pointed out the only item in his evaluation that had a counseling connotation was that the sergeant should seek out supervisory training.

Sergeant Kraker was asked if he felt he violated the following Volusia County Merit System Rules and Regulations as well as VSO Standards Directives:

Volusia County Merit System Rules and Regulations 86-453 (1)	No
Volusia County Merit System Rules and Regulations 86-453 (2)	No
Volusia County Merit System Rules and Regulations 86-453 (5)	No
Volusia County Merit System Rules and Regulations 86-453 (10)	No
Volusia County Merit System Rules and Regulations 86-453 (12)	No
Volusia County Merit System Rules and Regulations 86-453 (14)	No
Volusia County Merit System Rules and Regulations 86-453 (22)	No
26.2.5 Neglect of Duty	No
26.2.12 Reporting for Duty- Absence from Duty without Proper Notification	No

26.2.33 Inattention to Duties, Loafing, Sleeping	No
26.2.34 Failure to Follow Directive or Order	No
26.2.40 Negligence, Not Endangering	Yes
26.2.106 Veracity- Untruthfulness	No
26.2.123 Insubordination Offense- Prompt Compliance With Lawful Order	No
26.2.124 Insubordination Offense- Compliance with Direct Order of a Superior or Competent Authority	No
26.2.133 Job Knowledge and Performance	No
26.2.134 Knowledge of Official Directives	No
26.2.160 Job Knowledge and Performance- Supervisor Responsibility	No

Lieutenant Kurt Schoeps (Second Interview)

On March 17, 2020, Lieutenant Sawicki conducted a sworn recorded interview with Lieutenant Schoeps. The following is a summary of the interview:

Lieutenant Schoeps has worked for the Volusia Sheriff's Office for 17 years, he is currently assigned as the Lieutenant in Investigative Services Section, and also serves as the commander for the bomb squad. Lieutenant Schoeps has been a lieutenant for Investigative Services Section for two years and the commander of the bomb squad for over one year. Prior to being commander, Lieutenant Schoeps was an assistant commander of the bomb squad for approximately two years. During Lieutenant Schoeps' time as assistant commander and commander of the bomb squad, Sergeant Kraker was also on the bomb squad. Lieutenant Schoeps believed Sergeant Kraker had been on the bomb squad for approximately six years.

Lieutenant Schoeps advised he had been previously interviewed by Detective Glenn Bennett regarding this administrative investigation and he asked questions in reference to Sergeant Kraker

attending a training specifically labeled as a rodeo. Detective Bennett also asked Lieutenant Schoeps about a training request form being denied by Sergeant Kraker's chain of command in District-6. Lieutenant Schoeps explained the approval was denied by Captain Fortin at the district level. In turn, it was denied by the bomb squad level through Lieutenant Schoeps, off the basis of it being denied by Sergeant Kraker's chain of command due to overtime. Lieutenant Schoeps advised the rodeo was scheduled for the beginning of December 2019, and believed it was December 4 through December 6.

Lieutenant Schoeps advised December 4, 2019 would have been the second day of the rodeo; however, the first day, December 3, 2019, was a set up day in robot repair and Sergeant Kraker would not have attended that day due to coverage issues. Lieutenant Schoeps stated Sergeant Kraker attended the second day of the rodeo, even though he had previously been denied.

Lieutenant Schoeps reviewed a text message thread from Monday, December 2, 2019, which started at 1:03pm. Lieutenant Schoeps explained this text message thread occurred before he spoke with Captain Fortin about the training denial, and Sergeant Kraker was denied the training by Captain Fortin prior to the text messages.

Text messages between Sergeant Kraker and Lieutenant Schoeps

Sergeant Kraker *"yo"*

Lieutenant Schoeps *"yo fuck will"*

Sergeant Kraker *"huh? Who's will and why are we fucking him lol"*

Lieutenant Schoeps *"ha-ha Mather that was not supposed to go to, that was supposed to go to him not you what you doing?"*

Sergeant Kraker *"ha-ha ok hanging out with the boy before getting ready for work tonight. I was told to reach out to you today to see about the rodeo. Did my COC [Chain of Command] fuck me over?"*

Lieutenant Schoeps *"nice I'm going crazy as usual"*

Sergeant Kraker *“you wanted to be a LT lol”*

Lieutenant Schoeps *“lol in a way yes I spoke to Fortin per the new TRF...” (Training Request Form) “protocol and he denied it due to OT” (overtime) “if you have emails from your LT...” Lieutenant “...advising otherwise then go off that. I got some leeway by changing those dates to our training dates. I’ll send out an email soon about all that”*

Sergeant Kraker *“I sent you the emails I had. It wasn’t exactly clear there was a denial or approval he just said keep me posted on your coverage. I got them covered and he never said anything else”*

Lieutenant Schoeps *“sounds like approval to me otherwise why grt...” get “...coverage”*

Sergeant Kraker *“exactly”*

Lieutenant Schoeps confirmed the rodeo counts as training hours for the bomb squad and described it as a multi-jurisdictional team outing where bomb squads from across the state, to include military, meet to train together and compete into not only a robot rodeo, which is like an obstacle course with a robot, but also a critical skills challenge for all bomb technicians. Lieutenant Schoeps clarified when he said *“if you have emails from your LT advising otherwise then go off that”* he was referring to emails from Lieutenant Garey MacDowell.

Lieutenant Schoeps explained the bomb squad cancelled their December training days to incorporate the robot rodeo as some of their training days in order to offset the cost of overtime.

Lieutenant Schoeps advised the text message thread happened at the same time he received the emails Lieutenant McDowell sent Sergeant Kraker. Lieutenant Schoeps stated it looked to him Sergeant Kraker had gotten approval from his chain of command based off of obtaining shift

coverage. Lieutenant Schoeps advised he believed Sergeant Kraker, Lieutenant McDowell, and Captain Fortin were all communicating with each other and were on the same page, telling Sergeant Kraker he could attend the rodeo if he got his shifts covered.

Lieutenant Schoeps believed the problem occurred when Sergeant Kraker was initially denied the training by Captain Fortin, which never changed. Sergeant Kraker then went and asked Lieutenant MacDowell if he could go to the training if he got his shifts covered. Sergeant Kraker interpreted Lieutenant MacDowell's emails and reply as a "yes" and relayed that approval to Lieutenant Schoeps without ever obtaining approval from Captain Fortin.

Lieutenant Schoeps believed Sergeant Kraker intentionally spoke to Lieutenant MacDowell after being denied the training by Captain Fortin in an effort to get a different response and obtain approval. Lieutenant Schoeps stated once Sergeant Kraker had Lieutenant MacDowell's approval he advised he got his shifts covered so he could go to the training.

Lieutenant Schoeps explained Sergeant Kraker attended the training on his first day, and when he arrived they actually spoke with him about getting approval from Lieutenant MacDowell. Lieutenant Schoeps stated Sergeant Kraker explained he spoke to Lieutenant MacDowell that morning, he was good to go, and he had shift coverage. Lieutenant Schoeps stated he believed everything was fine and they went about their training. Lieutenant Schoeps advised at approximately 6:00 - 6:30pm that night he received a phone call from Captain Fortin, who was with Lieutenant MacDowell, questioning why Sergeant Kraker was at the training without his approval. Lieutenant Schoeps stated that was the first time he knew Sergeant Kraker's training had been denied by Captain Fortin without any change in that approval. Lieutenant Schoeps advised Sergeant Kraker did not go back to training for the rest of the week.

WITNESSES:

Sergeant AJ Pagliari
123 West Indiana Avenue
DeLand, FL
386-736-5961

Lieutenant Kurt Schoeps
123 West Indiana Avenue
DeLand, FL
386-736-5961

Lieutenant Kyle McDaniel
123 West Indiana Avenue
DeLand, FL
386-736-5961

Sergeant Jayson Paul
123 West Indiana Avenue
DeLand, FL
386-736-5961

Captain Richard Fortin
123 West Indiana Avenue
DeLand, FL
386-736-5961

Lieutenant Garey MacDowell
123 West Indiana Avenue
DeLand, FL
386-736-5961

Under penalties of perjury, I declare that I have read the foregoing document and that the facts stated in it are true to the best of my knowledge and belief.

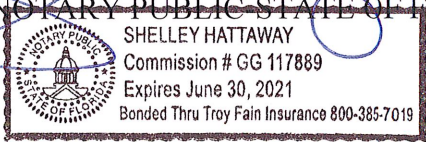
AND

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.

DETECTIVE: [Signature] DATE: 07/20/2020
Lieutenant Justin G. Sawicki
Internal Affairs Detective

STATE OF FLORIDA
COUNTY OF VOLUSIA

Sworn to (or affirmed) and subscribed before me by means of physical presence or online Notarization this 20th day of July, 2020 by Justin G. Sawicki

[Signature]
SIGNATURE OF NOTARY PUBLIC STATE OF FLORIDA


PRINT, TYPE, OR STAMP COMMISSIONED NAME OF NOTARY PUBLIC

PERSONALLY KNOWN OR PRODUCED IDENTIFICATION

TYPE OF IDENTIFICATION PRODUCED

APPROVED BY: [Signature] DATE: 07-20-2020
CHIEF DEPUTY JOSEPH GALLAGHER
VOLUSIA COUNTY FLORIDA



VOLUSIA SHERIFF'S OFFICE

MICHAEL J. CHITWOOD, SHERIFF

To: Chief Deputy Joseph Gallagher

Date: November 2, 2020

From: Lieutenant Daniel Shivers, #6842
Office of the Chief Deputy - Internal Affairs

File: 043M003.20

Subject: Internal Affairs Investigation IA-19-011

Regarding Volusia Sheriff's Office Internal Affairs investigation IA-19-011, all parties agreed that the below alleged Volusia Sheriff's Office Departmental Standards and Directive violations be deemed unfounded:

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.

(5) Violation of any reasonable or official order, refusal to carry out lawful and reasonable directions given by a proper supervisor, or other acts of insubordination.

(12) Incompetent or unsatisfactory performance of duties.

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)

26.2.33 Inattention to Duties, Loafing, Sleeping - Employees shall be attentive to job duties and shall not neglect work by inattention, loafing, or sleeping while on duty. (Violation subject up to a 1-day suspension)

26.2.34 Failure to Follow Directive or Order - Employees shall adhere to all official Directives and/or orders, and shall faithfully execute all the duties and responsibilities of their assigned position. (Violation subject up to a 5-day suspension)

26.2.40 Negligence, Not Endangering - Employees shall not ignore or violate official Directives, orders, or supervisory instructions or knowingly fail to properly execute the duties and responsibilities of their assigned positions. (Violation subject up to a 5-day suspension)

26.2.123 Insubordination Offense- Prompt Compliance With Lawful Order - Employees shall promptly execute the

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lawful orders and/or instructions of a supervisor or superior officer of the VSO and shall not delay or fail to carry out such orders or instructions. (Violation subject up to a 5-day suspension)

26.2.133 Job Knowledge and Performance- Repeated failure to maintain necessary skills, knowledge and abilities after counseling and instruction shall result in increasing the severity of disciplinary actions. (Violation subject up to dismissal)

26.2.134 Knowledge of Official Directives: VSO personnel are required to possess a sound working knowledge of the policies and procedures established by the Standards Directives. (Violation subject up to a 5-day suspension)

26.2.160 Job Knowledge and Performance- Supervisor Responsibility- Each supervisor shall provide guidance and training to subordinate staff for effective and efficient achievement of established goals and objectives. A supervisor has the responsibility and authority for assigning, reviewing, and monitoring activities of subordinate staff under his/her command. In addition, a supervisor shall provide clear directions to subordinates and address specific problems for completion of work assignments. The supervisor shall also ensure that assigned employees comply with applicable federal and state laws, Volusia County ordinances, and all VSO written direction as provided through Directives, Training Bulletins, policies and procedures. (Violation subject to counseling and/or disciplinary sanctions up to and including demotion)

This memorandum serves as the final disposition of the aforementioned Internal Affairs Investigation.

