

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

REPORT OF INVESTIGATION

REPORT NUMBER: IA-17-014

PERIOD COVERED: March 21, 2017
DATE REPORTED: March 23, 2017
SUBJECT(S) NAME: Deputy James Seyboldt #7840
INVESTIGATING OFFICERS: Detective Tara Burke #1465

BASIS FOR INVESTIGATION:

On March 23, 2017, Sheriff's Office command staff received an email from Mrs. Jill Hemmerlein in reference to Deputy James Seyboldt. The email addressed safety concerns involving how an incident was handled with her juvenile daughter, and Deputy Seyboldt's interaction with bicyclists. Furthermore, a formal citizen's complaint was made by Mr. Clayton Beazley, who is also a bicyclist. Mr. Beazley was present during the incident on March 21, 2017.

OFFENSES:

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

26.2.47 Courtesy - Employees shall be civil and respectful toward each other and toward the public in general. They shall be especially courteous to visitors, guests, speakers and instructors. *(Violation subject up to a 1-day suspension.)*

26.2.132 General Proficiency- 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.)*

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

INVESTIGATIVE SUMMARY:

On March 23, 2017, Sheriff's Office command staff received an email from Mrs. Jill Hemmerlein in reference to Deputy James Seyboldt. The email addressed safety concerns involving how an incident was handled with her juvenile daughter, and Deputy Seyboldt's interaction with bicyclists. Mrs. Hemmerlein expressed her concern for lack of education of deputies pertaining to cyclists and requested further education for deputies; she also requested command staff make contact with Mr. Clayton Beazley regarding this matter.

Furthermore, a formal citizen's complaint was made by Mr. Beazley; he is also a bicyclist and was present during the incident on March 21, 2017. Written in the formal complaint, Mr. Beazley advised Deputy Seyboldt made an unlawful stop, and was driving too close to a bicyclist. Mr. Beazley expressed he feels Deputy Seyboldt and other deputies need additional education on the Florida State Statutes pertaining to bicyclist. Mr. Beazley felt Deputy Seyboldt showed lack of concern for riders, he should be issued citations, and he requested Deputy Seyboldt be removed from patrolling the Ormond Beach "scenic loop" because he's a "threat and a danger to cyclists."

On April 11, 2017, Chief Deputy John Creamer assigned the above incident to the Internal Affairs Unit for investigation. On May 16, 2016, Deputy Seyboldt was served with a Notification of Internal Investigation along with a copy of his Officer Bill of Rights. This report details the internal affairs investigation conducted by Detective Tara Burke. *(See Tab- C for Official Correspondence)*

Detective Burke reviewed the body worn camera video of the incident on March 21, 2017. In the video, Deputy Seyboldt is seen pulling over the bicyclist. Mr. Beazley is seen in the video approaching Deputy Seyboldt, raising his voice, and arguing with Deputy Seyboldt for being pulled over and for him driving too close to the bicyclists. Deputy Seyboldt attempts to explain the reason for the stop but Mr. Beazley continues to argue with him, eventually a citation is issued to Mrs. Hemmerlein's daughter.

Mr. Clayton Beazley

On June 2, 2017, Detective Burke and Detective Glen Bennett conducted a sworn recorded interview with Mr. Clayton Beazley. The following is a summary of that interview:

Mr. Beazley advised he did file a formal complaint with the Volusia County Sheriff's Office because of an incident that occurred on March 21, 2017 while on Old Dixie Highway in Ormond Beach. Mr. Beazley was concerned with Deputy Seyboldt riding close to the riders, he said, "*he buzzed us,*" meaning he was very close to them. Mr. Beazley felt that Deputy Seyboldt put the bicyclists in danger.

Mr. Beazley said they were pulled over for impeding traffic, but then said that's probably not truthful, he said they were probably stopped because he "*shot him a bird*" and was screaming at Deputy Seyboldt. Mr. Beazley explained that he was angry and felt there was no reason to put their lives in danger with his automobile. Mr. Beazley did not feel that Deputy Seyboldt abided by the three-foot law of distance from a bicyclist.

During the interview, Mr. Beazley explained he felt the stop was unlawful, Deputy Seyboldt drove too close to the bicyclist, and when he stopped them it was dangerous. Mr. Beazley denied interacting with Deputy Seyboldt prior to this day. Mr. Beazley said Deputy Seyboldt was not belligerent towards them, but he felt he was arrogant. Mr. Beazley also expressed his concern with Deputy Seyboldt writing a citation to a fourteen-year-old girl. Mr. Beazley said he recorded the incident but his phone broke on that day and he lost everything that was on that cellular phone. When asked if he or any of the bicyclists were verbally abusive toward Deputy Seyboldt,

Mr. Beazley explained that his friend “Greg” (Greg Hagan) was upset with him, because although Mr. Beazley did not cuss at Deputy Seyboldt, he did “*shoot him a bird.*”

Prior to ending the interview, Mr. Beazley said he’s not trying to get Deputy Seyboldt in trouble, he felt like he’s a reasonable guy, and he just wants him to leave the bikers alone. (*See tab-D for Official Transcripts*)

While at Mr. Beazley’s place of business, Mr. Greg Hagen also spoke with Detectives and Mr. Beazley. Mr. Hagen is also a bicyclist and was present during the stop on March 21, 2017. While speaking with Mr. Hagen he made the statement, “*he probably wrote the ticket because of you (Mr. Beazley),*” referring to Deputy Seyboldt writing the ticket because of his confrontation with Mr. Beazley. Mr. Hagen advised that Deputy Seyboldt was not rude to them, but he was also aware of a prior incident of bicyclist being pulled over by the same deputy.

Two appointments were set with Mr. Joshua Hemmerlein, one on 08/25/17 and one on 08/31/17. Mr. Hemmerlein cancelled both appointments due to his busy work schedule. Detective Burke spoke with Mr. Hemmerlein briefly via telephone, he expressed that he was pleased with the investigation and the new deputy currently assigned in the area.

Deputy James Seyboldt

On September 28, 2017, Detective Burke and Sergeant Tom Tatum conducted a sworn recorded interview with Deputy Seyboldt. The following is a summary of that interview:

Deputy Seyboldt has been employed with the Volusia County Sheriff’s Office for over six years. Deputy Seyboldt is currently assigned to district three south, patrol. Prior to working in district three south, Deputy Seyboldt worked in district three north on patrol for four years.

Deputy Seyboldt recalled the incident that occurred on March 21, 2017, while on Old Dixie Highway. He was northbound on Old Dixie Highway and a group of bicyclists were also northbound, one of the bicyclist came out of line and close to Deputy Seyboldt’s patrol car as he

was passing. Deputy Seyboldt pulled off the roadway, waited for the bicyclists to pass, and told them over the P.A. to maintain a single file. Deputy Seyboldt said Mr. Beazley then approached with a cell phone as if he was recording and was yelling at him, he then activated his body worn camera and conducted the traffic stop on the group of bicyclists.

Deputy Seyboldt explained the bicyclists were instantly upset with him because they felt he was too close to their bicycles, he attempted to explain the reason for the stop, his intent was to explain how dangerous it was because they were impeding the flow of traffic. Deputy Seyboldt wrote a citation to the juvenile and immediately advised his supervisor, Sergeant Greg Miles, about the incident.

Deputy Seyboldt explained the bicycle violation occurred prior to his body worn camera being activated, therefore the violation was not captured on video. Deputy Seyboldt later found out this was the same group of bicyclist that people in the subdivision of Halifax Plantation were complaining about impeding the flow of traffic. Deputy Seyboldt advised that Captain Brian Bosco sent out an email in the past regarding concerns of residence in the area complaining about bicyclists impeding traffic. Deputy Seyboldt said he had a prior encounter with them and they were upset with him because of how he pulled them over, he read them the Florida State Statue and sent them on their way. His initial contact with the bicyclists was eight months prior to this incident occurring.

Deputy Seyboldt was asked if he violated the following policies:

- | | | |
|-----------------|---|-----------|
| 26.2.47 | Courtesy | No |
| 26.2.132 | General Proficiency | No |
| 86-453 | Volusia County Merit System Rules and Regulations (13) | No |

(See Tab- E for Official Transcript)

Deputy Seyboldt later provided a copy of an email sent by Captain Brian Bosco from August 9, 2015. The initial email was sent to Captain Bosco from a citizen concerned about bicyclist not sharing the roadway, included some photographs. Furthermore, Deputy Seyboldt provided a copy of an email sent by Lieutenant Pagliari on September 29, 2016, including the “*FDOT Bicycle and Pedestrian Campaign*,” this was education on pedestrian and bicycle laws. (*See tab-F for Miscellaneous Documents*)

EXECUTIVE SUMMARY:

On March 23, 2017, Sheriff’s Office command staff received an email from Mrs. Jill Hemmerlein in reference to Deputy James Seyboldt. The email addressed safety concerns involving how an incident was handled with her daughter, and Deputy Seyboldt’s interaction with bicyclists. Mrs. Hemmerlein expressed her concern for lack of education of deputies pertaining to cyclists, and requested further education for deputies. Mrs. Hemmerlein also requested command staff make contact with Mr. Clayton Beazley regarding this matter. Furthermore, a formal citizen’s complaint was made by Mr. Beazley. Mr. Beazley is also a bicyclist and was present during the incident on March 21, 2017.

Detective Burke reviewed the body worn camera video of the incident on March 21, 2017. In the video, Deputy Seyboldt makes a traffic stop on the bicyclists. Mr. Beazley approaches Deputy Seyboldt and is argumentative with him. Deputy Seyboldt attempts to explain the reason for the stop, but Mr. Beazley continues to argue with him, eventually a citation was issued to Mrs. Hemmerlein’s daughter.

During his interview with Internal Affairs Detectives, Mr. Beazley said he felt the stop of the bicyclists was unlawful, Deputy Seyboldt drove too close to the bicyclist, and the stop was dangerous. Mr. Beazley admitted that he “*shot a bird*” at Deputy Seyboldt and thought this may have been the reason for the stop, not because the bicyclists were impeding the flow of traffic. Mr. Beazley said Deputy Seyboldt was not belligerent but he felt he was somewhat arrogant. Prior to ending the interview, Mr. Beazley explained he is not trying to get Deputy Seyboldt in trouble but he just wants him to leave the bikers alone.

While at Mr. Beazley’s place of business, Mr. Greg Hagen also spoke with Detectives and Mr. Beazley. Mr. Hagen is also a bicyclist and was present during the stop on March 21, 2017. While speaking with Mr. Hagen he made the statement, “*he probably wrote the ticket because of you (Mr. Beazley),*” referring to Deputy Seyboldt writing the ticket because of his confrontation with Mr. Beazley. Mr. Hagen advised that Deputy Seyboldt was not rude to them, but he was also aware of a prior incident of bicyclists being stopped by the same deputy.

During his interview with Internal Affairs Detectives, Deputy Seyboldt explained that the bicycle violation occurred prior to activating the body worn camera. Deputy Seyboldt pulled off the roadway in an attempt to inform the bicyclist of the dangers of impeding the flow of traffic. The bicyclists were upset and argumentative with Deputy Seyboldt because they felt he was too close to their bicycles. Deputy Seyboldt attempted to explain the reason for the stop, he wrote the citation, and then immediately advised his supervisor, Sergeant Greg Miles, about the incident. Deputy Seyboldt later found out that this was the same group of bicyclist that citizens in the subdivision of Halifax Plantation were complaining about impeding the flow of traffic in the past.

Deputy Seyboldt later provided a copy of an email sent by Captain Brian Bosco from August 9, 2015. The initial email was sent to Captain Bosco from a citizen concerned about bicyclist not sharing the roadway, included some photographs. Furthermore, Deputy Seyboldt provided a copy of an email sent by Lieutenant Pagliari on September 29, 2016, including the “FDOT Bicycle and Pedestrian Campaign,” this was education on pedestrian and bicycle laws.

Conclusion:

On October 30, 2017, this investigation was presented to the Sheriff. After review, the Sheriff determined the violation of the below listed department and county policies to be:

- | | |
|--|----------------------|
| 26.2.47 Courtesy | not sustained |
| 26.2.132 General Proficiency | sustained |
| 86-453 Volusia County Merit System Rules and Regulations (13) | not sustained |

The Sheriff determined that Deputy Seyboldt would receive counseling and additional education on bicycle safety for his actions. *(See Tab- C for Official Correspondence)*

On October 31, 2017, Deputy Seyboldt completed the online training, “*Cycling Safety Roll Call for Law Enforcement.*” *(See tab- F for Miscellaneous Documents)*

Exhibits:

- A. Report of Investigation
- B. Advisement Administration of Oath/Perjury Warning/Garrity Warning
- C. Official Correspondence
- D. Official Transcripts of Clayton Beazley
- E. Official Transcripts of Deputy Seyboldt
- F. Miscellaneous Documents
- G. Digital Media


WITNESSES:

Clayton Beazley
2180 Arabian Trail
Ormond Beach, FL
386-736-5961

Greg Hagen
545 Parque Drive
Ormond Beach, FL
386-672-2821

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:  DATE: 11/13/17
Detective Tara Burke
Internal Affairs Detective

APPROVED BY:  DATE: 11/15/17
Chief Deputy John Creamer
SHERIFF MICHAEL J. CHITWOOD
VOLUSIA COUNTY FLORIDA