

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

REPORT OF INVESTIGATION

REPORT NUMBER: IA-17-017

PERIOD COVERED: March 22, 2017
DATE REPORTED: March 30, 2017
SUBJECT(S) NAME: Deputy Matthew Myers #8123
INVESTIGATING OFFICERS: Detective Tara Burke #1465

BASIS FOR INVESTIGATION:

On April 16, 2017, Detective Tara Burke received a supervisor's inquiry drafted by Sergeant Matthew Inken; the subject of the inquiry was Deputy Matthew Myers. On March 22, 2017, Deputy Myers had a prisoner who was placed in the holding cell at the Deltona substation, 1691 Providence Boulevard, Deltona, FL. The prisoner escaped from the holding cell, Deputy Reinhardt and his K-9 partner later apprehended him at 1696 Providence Boulevard. The prisoner, Daniel Brown, sustained injuries as a result of the K-9 apprehension and had to be transported to the hospital for treatment.

OFFENSES:

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

26.2.43 Search of Arrested Person - Deputies shall exercise proper care in the arrest, transportation, and detention of prisoners to prevent escape, injury to self, others, or damage to property. Upon arrest, prisoners shall be searched carefully by the arresting Deputy and all weapons, contraband, or evidence shall be immediately confiscated. When a prisoner cannot be thoroughly searched before being turned over to a receiving Deputy, the arresting Deputy shall, without fail, notify the deputy receiving the prisoner. *(Violation subject up to a 5-day suspension.)*

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.)*

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: (10): Incompetent or unsatisfactory performance of duties.

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

INVESTIGATIVE SUMMARY:

On April 16, 2017, Chief Deputy John Creamer assigned the above incident to the Internal Affairs Unit for investigation. On May 16, 2017, Detective Myers 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 viewed the district four holding cell video from March 21 and March 22. In the video Deputy Myers secures the prisoner to the D-ring on the bench within the holding cell, then closes and secures the cell door with the lever lock on the outside bottom of the cell door, he did not lock the deadbolt on the holding cell door. The prisoner is seen moving around a lot during the time he's in the holding cell. At one point, the prisoner is no longer in his handcuffs while in the cell. Deputy Myers takes him out of the holding cell for several minutes; the prisoner is then brought back into the holding cell, secured to the D-ring a second time with double locked handcuffs, and the door was secured using the lever lock on the outside of the door. Deputy Myers did not lock the deadbolt on the holding cell door this time when he put the prisoner back in the holding cell for the second time. In the video the prisoner is seen moving around and eventually is free from his handcuffs, it appears he uses his fingers through the holes on the cell door to maneuver the lever lock on the outside bottom of the cell door. Eventually the prisoner gets the lever lock unlatched and is able to walk out of the cell and out the back door of the building.

Deputy Paul Mele

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

Deputy Mele has been employed with the VCSO for eight years. Deputy Mele is currently assigned to district 4, patrol.

Deputy Mele recalled the incident that occurred with Deputy Matthew Myers on March 22, 2017, when a subject escaped from the district four holding cell. Deputy Mele recalled sitting in the district 4 briefing room on his lunch break when Deputy Myers entered, they talked for approximately one minute or less, and then Deputy Myers asked Deputy Mele to watch his prisoner. Deputy Myers told Deputy Mele that the cage was not locked. Deputy Mele wasn't certain if the prisoner was secure in handcuffs to the D-ring inside the holding cell, and he wasn't certain if Deputy Myers was "*just kidding*" about the cage not being locked until Deputy Myers walked away and he heard him yelling over the radio. Deputy Mele was uncertain why Deputy Myers asked him to watch the prisoner. *(See Tab- D for Official Transcript)*

Deputy Matthew Myers

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

Deputy Myers has been employed with the VCSO for over four years. Deputy Myers is currently assigned to district four patrol. Prior to working in patrol, Deputy Myers was assigned to the DUI Unit, which is part of the Traffic Unit.

Deputy Myers recalled the incident that occurred on March 22, 2017, when a subject escaped from the district four holding cell. Deputy Myers responded to the office with the prisoner after a DUI arrest and placed him in the holding cell. The prisoner was searched by Deputy Myers and

secured with double locked handcuffs to the D-ring located on the bench within the holding cell; the holding cell door was then secured with the lever on the bottom of the door. Deputy Myers has been issued a key to the holding cell but did not lock the dead bolt on the holding cell door.

Deputy Myers explained that he went into the briefing room for a minute to speak with Deputy Mele, requesting him to watch the prisoner until transport arrived to pick him up. Deputy Myers was returning to the area of the holding cell when he heard the door slam shut, he then noticed the handcuffs were still attached to the bench, but the prisoner had escaped. Deputy Myers immediately went outside to look for the prisoner and summoned a nearby Deputy to notify dispatch due to his radio battery dying. VCSO Air One, K-9, and additional deputies were utilized for the search, the prisoner was found a short time later at a church located across the street from district four.

Deputy Myers was unable to confirm if there was any procedures posted on the wall of the holding cell containing the protocol of securing prisoners, but he believes an email may have been sent out with the proper detention and holding cell logs.

Deputy Myers was unaware of how the prisoner was able to escape from the holding cell. Deputy Myers recalled the prisoner escaped from his handcuffs once while in the holding cell, he advised he did not interview the prisoner the first time he escaped from the handcuffs so he is unaware of how he got them off. Deputy Myers advised he also never interviewed the prisoner the second time he escaped from the handcuffs and left the district.

Deputy Myers advised he has made over 500 arrests during his career at VCSO and never had any issues with prisoners escaping in the past. Deputy Myers confirmed that while doing DUI arrests it's common to have the prisoner moving around without a pair of handcuffs for the purposes of doing field sobriety testing and other testing as needed.

Deputy Myers was asked if he violated the following policies:

26.2.43 Search of Arrested Person

No

26.2.5 Neglect of Duty	Yes
86-453 Volusia County Merit System Rules and Regulations (10)	Yes
86-453 Volusia County Merit System Rules and Regulations (13)	No

(See Tab- E for Official Transcript)

Detective Burke spoke with the Assistant Commander at district four, Lieutenant Richard Fortin. Lieutenant Fortin advised there are no postings on the walls, or official procedures, when securing a prisoner in the holding cell at district four. Lieutenant Fortin did advise that a temporary detention facility log is used to document when a prisoner is within the holding cell and the deputy is required to document the log.

EXECUTIVE SUMMARY:

On April 16, 2017, Detective Tara Burke received a supervisor’s inquiry drafted by Sergeant Matthew Inken; the subject of the inquiry was Deputy Matthew Myers.

On March 22, 2017, Deputy Myers had a prisoner who was placed in the holding cell at the Deltona substation, 1691 Providence Boulevard, Deltona, FL. Deputy Myers secured the prisoner to the D-ring located on the bench within the holding cell; the holding cell door was secured with the lever on the bottom of the door. Deputy Myers has been issued a key to the holding cell but did not lock the dead bolt on the holding cell door.

Deputy Myers went to the briefing room to speak to Deputy Paul Mele; he was in the briefing room for approximately one minute. When Deputy Myers returned to the holding cell area, he heard the door slam shut, noticed the handcuffs were still attached to the D-ring on the bench, but the prisoner had escaped. Dispatch was immediately notified and VCSO Air One, K-9, and additional deputies were utilized to assist. Deputy Reinhardt and his K-9 partner later apprehended the prisoner at 1696 Providence Boulevard. The prisoner, Daniel Brown, sustained injuries as a result of the K-9 apprehension and had to be transported to the hospital for treatment.

Detective Burke spoke with the Assistant Commander at district four, Lieutenant Richard Fortin. Lieutenant Fortin advised there are no postings on the walls, or official procedures, when securing a prisoner in the holding cell at district four. Lieutenant Fortin did advise that a temporary detention facility log is used to document when a prisoner is within the holding cell and the deputy is required to document the log. Deputy Myers did document the holding cell log while the prisoner was in custody at the district, a copy of the log was provided.

Detective Burke viewed the district four holding cell video from March 21 and March 22. It appears during the video the prisoner is able to get out of his handcuffs twice while the handcuffs are still attached to the D-ring inside the cell. Deputy Myers double locked the handcuffs but did not lock the deadbolt on the cell door; he used the lever lock at the bottom outside of the cell door to secure it. In the video, the prisoner is seen moving around and eventually is free from his handcuffs, it appears he uses his fingers through the holes on the cell door to maneuver the lever lock on the outside bottom of the cell door. Eventually the prisoner gets the lever lock unlatched and is able to walk out of the cell and out the back door of the building.

Conclusion:

On September 22, 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:

26.2.43 Search of Arrested Person **Not Sustained**

26.2.5 Neglect of Duty **26.2.5 Sustained**

RE: 72.2 Temporary Detention

86-453 Volusia County Merit System Rules and Regulations (10) **Sustained**

86-453 Volusia County Merit System Rules and Regulations (13) **Not Sustained**

The Sheriff determined that Deputy Myers will receive a letter of reprimand for his actions. *(See Tab- C for Official Correspondence)*

Exhibits:

- A. Report of Investigation
- B. Advisement Administration of Oath/Perjury Warning/Garrity Warning
- C. Official Correspondence
- D. Official Transcripts of Deputy Paul Mele
- E. Official Transcripts of Deputy Matthew Myers
- F. Miscellaneous Documents
- G. Digital Media

WITNESSES:

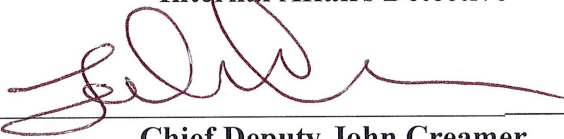
Deputy Paul Mele
Volusia County Sheriff's Office
386-736-5961

Lieutenant Richard Fortin
Volusia County Sheriff's Office
386-736-5961

Sergeant Matthew Inken
Volusia County Sheriff's Office
386-736-5961

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: 10/05/17
Detective Tara Burke
Internal Affairs Detective

APPROVED BY:  DATE: 10/5/17
Chief Deputy John Creamer
SHERIFF MICHAEL J. CHITWOOD
VOLUSIA COUNTY FLORIDA