

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

REPORT OF INVESTIGATION

REPORT NUMBER: IA-13-016

PERIOD COVERED: August 21 through September 13, 2013
DATE REPORTED: September 9, 2013
SUBJECT(S) NAME: Deputy Kelly Hill #7829
INVESTIGATING OFFICER: Sergeant Thomas Tatum #2405

BASIS FOR INVESTIGATION:

On August 21, 2013, Deputy Kelly Hill responded to 385 Champlain Dr. in Deltona, FL. in reference to a grand theft report. Deputy Hill met with the complainants, Mr. and Mrs. Ciabatonni and obtained suspect information, a list of stolen jewelry and photos of the jewelry. Deputy Hill submitted the original report to the Copperfire reporting system.

On August 22, 2013, Deputy Hill made contact with the suspect, Homer Stivers and made an agreement, prior to his statement, promising he would not be arrested that day if he cooperated. Mr. Stivers provided a written statement admitting to selling the jewelry he received from his wife June Stivers. After the interview with Mr. Stivers, Deputy Hill met with Mrs. Stivers and placed her in custody for grand theft and violation of probation. Deputy Hill was instructed by Sergeant Mike Odgers to complete the affidavits for dealing in stolen property and violation of probation on Mr. Stivers before the end of her shift and place them in the Criminal Investigations (CID) box.

On September 9, 2013, the theft victim, Mr. Ciabatonni, contacted Sergeant Odgers to inquire if his stolen jewelry had been recovered. Sergeant Odgers contacted Deputy Hill to get an update on the case and asked if she completed the affidavits on Mr. Stivers as instructed. Deputy Hill told Sergeant Odgers she must have forgotten to do the affidavits. Mr. Ciabatonni also stated he provided Deputy Hill with photographs of some of the stolen items. Sergeant Odgers checked the property report and did not see where Deputy Hill submitted the photographs as evidence. The lack of follow up in a timely manner resulted in the permanent loss of the victim's jewelry.

On September 10, 2013, Sergeant Odgers conducted a supervisor inquiry, referenced by memo 054M090.13, into allegations that Deputy Hill was neglectful in her duties as a deputy sheriff, failed to submit reports (affidavits) and failed to submit evidence. Deputy Hill was purposely not interviewed during the supervisor inquiry. Due to the potential of adverse action, the case was referred to the Internal Affairs Unit for investigation. *(See Tab C for Supervisor Inquiry)*

OFFENSE(S):

This investigation is relevant to an alleged violation of Department Standards Directives:

26.2.35 Submission of Reports and Documents- Employees shall originate, complete, and submit all reports and documents required in the execution of their duties prior to concluding a tour of duty except as authorized by a supervisor. *(Violation subject up to a 1 day suspension.)*

26.2.41 Negligence Associated with Safety of Persons or Property - Employees shall be attentive to job duties and shall not violate official Directives, orders, supervisory instructions, or knowingly refrain and cause another to refrain from the performance of lawful duties required for the safety of persons or property. *(Violation subject up to a demotion.)*

26.2.96 Processing Property and Evidence - Property and evidence which have been received in connection with official duties will be processed in accordance with the provisions of Chapters 83 and 84. Department personnel shall not convert to their own use, manufacture, conceal, falsify, destroy, remove, tamper with or withhold any property or evidence held in connection with an investigation or other official action except in accordance with established procedures. *(Violation subject up to dismissal.)*

26.2.123 Prompt Compliance With Lawful Order - Employees shall promptly execute the lawful orders and/or instructions of a supervisor or superior officer of the Department and shall not delay or fail to carry out such orders or instructions. *(Violation subject up to a 5 day suspension.)*

26.2.132 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.)*

INVESTIGATIVE SUMMARY:

On September 24, 2013, Chief Deputy Mike Coffin assigned the above case to the Internal Affairs Unit for investigation. Sergeant Thomas Tatum reviewed the supervisor's inquiry completed by Sergeant Odgers which included VCSO report 13-22993 and sworn written statements from Linda Ciabaton, Frank Ciabaton, June Stivers, and Homer Stivers. This report details the internal affairs investigation conducted by Sergeant Tatum.

Sergeant Tatum served Deputy Hill with her Notification of Internal Investigation at the District 4 office and she was provided a copy of the Law Enforcement Officer's Rights. *(See Tab-B Official Correspondence)*

Sergeant Mike Odgers

On September 27, 2013, Sergeant Tatum and Lieutenant Erik Eagan conducted a sworn recorded interview with Sergeant Odgers at Fire Station #65 in Deltona, FL. The following is a summary of the interview.

Sergeant Odgers advised he has been Deputy Hill's supervisor for the past year. He confirmed Deputy Hill responded to a burglary call on August 21, 2013, at 385 Champlain Dr. in Deltona, FL. Sergeant Odgers stated Deputy Hill identified two suspects, June Stivers and Homer Stivers. Deputy Hill completed and submitted an incident report detailing the theft of jewelry and listed the stolen items on a property report.

Sergeant Odgers said on August 22, 2013, Deputy Nicholas Shephard located Mr. Stivers in Deltona and Deputy Hill responded to conduct an interview with him. Sergeant Odgers stated when he arrived on scene, Deputy Hill had already reached an agreement with Mr. Stivers in exchange for his cooperation he would not be taken to jail on that date. Mr. Stivers provided a written statement implicating his wife June Stivers as the person who stole the jewelry. Sergeant Odgers advised Deputy Hill met with Mrs. Stivers immediately after and arrested her for grand theft and violation of probation. Sergeant Odgers told investigators he had a conversation with Deputy Hill and explained the importance of completing affidavits on Mr. Stivers due to his criminal history. Sergeant Odgers said his order was perfectly clear for Deputy Hill to complete the affidavits by the end of shift on Mr. Stivers and to contact District 4 Criminal Investigations (CID) to place a hold on the stolen property at the pawn shop. Sergeant Odgers stated he told Deputy Hill they only have 15 days to place a hold on the jewelry at the pawn shop before the items are sent out to be melted down.

Sergeant Odgers told investigators Mr. Ciabatonni contacted him on September 9, 2013, to find out if any of his jewelry had been recovered. Sergeant Odgers stated he contacted Deputy Hill to get an update on the case. When he asked Deputy Hill if she completed the affidavits on Mr. Stivers and contacted CID, her response was, "*I guess if forgot.*" Sergeant Odgers said he did not ask Deputy Hill any further questions.

Sergeant Odgers said on September 10, 2013, he and Deputy Kyle Bainbridge met with Mr. Ciabatonni at his residence. Sergeant Odgers stated he asked Mr. Ciabatonni if he had any photographs of the stolen items, to which he replied he gave Deputy Hill numerous photographs the night she took the report. Sergeant Odgers told investigators he checked the Records Management System (RMS) for VCSO report 13-22993 and did not see a property report documenting the photographs were placed into evidence. Sergeant Odgers said the only mention of the photographs was in the narrative of Deputy Hill's original report which stated she made copies of them. Sergeant Odgers stated he had Deputy Shephard check local pawn shops in an attempt to locate the stolen jewelry. Deputy Shephard advised Sergeant Odgers he located the pawn shop where Mr. Stivers sold the jewelry, but the items had already been shipped out to be melted down. This resulted in the permanent loss of the jewelry.

Sergeant Odgers told investigators had Deputy Hill followed his instruction to complete the affidavits on Mr. Stivers and contact CID to place a hold on the property, the permanent loss of the jewelry would have been avoided. (*See Tab E for complete transcript*)

Deputy Kelly Hill

On October 16, 2013, Sergeant Tatum and Lieutenant Eagan conducted a sworn recorded interview with Deputy Hill in the Sheriff's Office PIO conference room in Deland, FL. Also

present during the interview was Teamsters Representatives Josh Vedder, Brodie Hughes and Teamsters Business Agent Bob Walker. The following is a summary of the interview.

Deputy Hill has been with the Volusia County Sheriff's Office for the past two and a half years and is currently assigned to District 4 patrol in Deltona, FL. In addition to Deputy Hill's patrol assignment she is also a Crime Scene Technician and attended 80 hours of specialized training in crime scene for that position.

Deputy Hill confirmed she completed an original report reference a theft call at 385 Champlain Dr. in Deltona, FL. on August 21, 2013. Deputy Hill advised the complainants, Mr. and Mrs. Ciabatonni, had jewelry stolen from their residence. Deputy Hill stated Mr. and Mrs. Ciabatonni provided her with the names of June and Travis Stivers as possible suspects. Deputy Hill said she was familiar with the Stivers and had dealt with them in the past. Deputy Hill advised she checked the VCSO Pawn Database the night of the theft and discovered Homer (Travis) Stivers had pawned several pieces of jewelry recently. Deputy Hill stated the description provided in the database was vague, but they were possible matches to the stolen items. Deputy Hill told investigators she notified her shift mates about the theft and suspect information. Deputy Hill said Deputies Nicholas Shephard and Kyle Bainbridge were in contact with Mr. Stivers on a subject stop in the area of Ferguson Ave. and Providence Blvd. in Deltona, FL. Deputy Hill advised she responded to the location and met with Mr. Stivers. Deputy Hill stated Mr. Stivers was already advised his Miranda Rights prior to her arrival. Deputy Hill said Mr. Stivers did not know what to say at first and she told him that if he cooperated he would not be arrested that day. Deputy Hill stated she made the deal with Mr. Stivers as a tactic to get him to talk. Deputy Hill advised the tactic worked and Mr. Stivers provided a written statement that implicated his wife, June Stivers as the one who stole the jewelry which he later took to a pawn shop and sold. Deputy Hill said Sergeant Odgers arrived on scene and she briefed him on what had taken place.

Deputy Hill stated Sergeant Odgers or Deputy Bainbridge told her Mr. Stivers was on probation. She was not aware of his probation status when she obtained the statement from him. Deputy Hill stated she was aware Mr. Stivers had a history of committing burglaries and thefts in the neighborhood. Deputy Hill told investigators during her conversation with Sergeant Odgers, she advised him her intention was to meet with Mrs. Stivers and arrest her for the theft. Deputy Hill said Sergeant Odgers understood why she wanted to build a rapport with Mr. Stivers to get a confession, but he didn't understand why he wasn't going to jail. Deputy Hill said she wanted to honor her deal with Mr. Stivers and asked Sergeant Odgers if she violated any state statute, which Sergeant Odgers replied she did not.

Deputy Hill explained that Sergeant Odgers instructed her to complete the arrest affidavits on Mr. Stivers and place them in the box for Criminal Investigations (CID) to follow up. Deputy Hill said she told Sergeant Odgers she did not want to hand everything over to CID, she wanted to follow through with it since she knew what she had to do in reference to completing and filing the affidavits on Mr. Stivers. Deputy Hill said Sergeant Odgers was clear in his instruction to complete the affidavits before the end of her shift and place them in the CID box. When asked if she followed Sergeant Odger's instruction, Deputy Hill responded, "*No I did not.*" Deputy Hill explained how she didn't want to push her work off on somebody else to complete and she takes pride in her work ethic. Deputy Hill said she did not complete the affidavits because she got busy that night. Her intent was to complete it the next day but she forgot she had a training class.

Deputy Hill said she did not notify Sergeant Odgers she was holding the affidavits and they were not complete. Deputy Hill stated she was not trying to intentionally withhold the affidavits; she just got busy and forgot to complete them. Deputy Hill said she was going to place a pawn hold order on the items Mr. Stivers pawned so she could have the slips to complete the affidavits, which she never did.

Investigators asked Deputy Hill since she was on night shift was she able to place a hold order on the items pawned by Mr. Stivers. Deputy Hill replied her work hours were 1500 to 0300 hours and her intent was to go to the pawn shop the next day and place a hold on the items and take care of it herself. Deputy Hill said the impression she got from Sergeant Odgers about turning the case over to CID was not because she was on night shift, it was so she would be done with it. Deputy Hill confirmed she never completed the complaint affidavits for Mr. Stivers, nor did she place a hold on the pawned jewelry.

Investigators asked Deputy Hill if she felt her negligence in following through with the case led to the destruction of the victim's jewelry and she replied, "*My negligence, yes.*" Deputy Hill also admitted her lack of follow up created more work for her zone partners who had to complete the affidavits and check the pawn shops for the jewelry.

Deputy Hill advised the night she took the original report from the Ciabatonis, she was provided with photographs of some of the stolen items. Deputy Hill wrote in her original report that she received the photographs; however, they were not listed on the property sheet as evidence. Deputy Hill stated she had the original photos with her and she displayed the photographs to investigators. Deputy Hill said her intent was to make copies of the photographs and return the originals to the Ciabatonis. Deputy Hill explained she normally makes copies of the original photographs then returns them to the owners. Deputy Hill said the original photographs sat in a folder in her vehicle. Deputy Hill said once she found out from Sergeant Odgers there may be adverse action taken against her; she just kept everything she had together in one place. Deputy Hill told investigators she would make the color copies to work from so she would not have the originals if she were to try comparing the pawned items to the ones stolen.

Deputy Hill said her goal was to submit the copies of the photographs as evidence when she completed that portion of the case. Deputy Hill stated she thinks differently now that she has crime scene training in the way she processes her scenes and evidence. Deputy Hill explained it was common practice for Crime Scene Technicians to maintain custody of evidence while working a case and then submit it after that portion of the case was complete. Deputy Hill acknowledged the evidence submission policy does not have an exception, if the evidence is being utilized in a patrol function, it does not have to be submitted at the end of shift.

Sergeant Tatum inquired at what time Deputy Hill intended on completing the affidavits since it had been approximately three weeks since the original report and she responded:

"The intention was to have them done sooner, but I'm, I didn't not get that completed. I didn't have a day that it's gonna be done by you know this day at 6 pm. It was I gotta get that done and then you get busy with something else and you forget. I mean, it wasn't, like I said I'm not trying to say that I didn't, I didn't screw up, I mean, I did, but it's not like I sat down and said ok well by tomorrow at 6 pm this gonna be done and

taken care of. Yeah, you say that in your head, and then you know I work forty-three zone, it's not a lot of down time. So you just get busy with something else and then it gets put in the back of your mind and you're not, it's my fault that I failed to come through, follow thru with it, but." (See Tab F for complete transcript)

Deputy Hill's response to the allegations:

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| 26.2.35 | Submission of Reports and Documents | Yes |
| 26.2.41 | Negligence Associated with Safety of Persons or Property | Yes |
| 26.2.96 | Processing Property and Evidence | Yes |
| 26.2.123 | Prompt Compliance With Lawful Order | Yes |
| 26.2.132 | Failure to maintain required skills, knowledge and abilities within acceptable levels shall result in counseling, instruction or training. | Yes |

CONCLUSION:

On November 12, 2013, this investigation was presented to the Sheriff and his administrative staff. After review, the Sheriff determined the violations of the below listed Department Standards Directives to be:

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| 26.2.35 | Submission of Reports and Documents | Sustained |
| 26.2.41 | Negligence Associated with Safety of Persons or Property | Sustained |
| 26.2.96 | Processing Property and Evidence | Sustained |
| 26.2.123 | Prompt Compliance With Lawful Order | Sustained |
| 26.2.132 | Failure to maintain required skills, knowledge and abilities within acceptable levels shall result in counseling, instruction or training. | Sustained |

Sheriff Johnson tentatively determined to suspend Deputy Hill without pay for five (5) eight hour work days which equates to forty (40) work hours, place her on a Performance Improvement Plan for 90 days and to suspend her from the Crime Scene Unit for ninety days until she successfully completes her PIP. During her suspension from the Crime Scene Unit, Deputy Hill will not longer be eligible for the five percent special assignment pay. On November 20, 2013, Deputy Hill was served with her Notice of Intent to Suspend letter. *(See Tab B for Official Correspondence)*

On December 2, 2013, Deputy Hill met with Sheriff Johnson and after earnest consideration, Sheriff Johnson's final decision was to suspend Deputy Hill for three (3) eight hour work days which equates to twenty-four (24) work hours. Deputy Hill will be placed on a Performance

Improvement Plan (PIP) for ninety (90) days and her collateral duties with the Crime Scene Unit will be suspended until successful completion of the PIP. Deputy Hill will not be eligible for the five percent incentive pay during the course of her suspension from the Crime Scene Unit.

On December 6, 2013, Deputy Hill was served with her final suspension letter. *(See Tab B for official correspondence)*

EXHIBIT(S):

- A. Report of Investigation
- B. Official Correspondence
- C. Complaint – Supervisor Inquiry
- D. Advisement of Rights for Disciplinary Interview & Perjury Warning
- E. Official transcript of Sergeant Mike Odgers
- F. Official transcript of Deputy Kelly Hill
- G. Miscellaneous Documents
- H. Digital Media

WITNESSES:

Sergeant Mike Odgers #1454
Volusia County Sheriff's Office
Deltona, FL
386-860-7030

I, the undersigned, do hereby swear, under the penalty of perjury, that, to the best of my personal knowledge, information, and belief, I have not knowingly or willfully deprived, or allowed another to deprive, the suspect of the investigation of any rights contained in ss. 112.532 and 112.533, Florida Statutes.

INVESTIGATOR: _____ DATE: _____

**Sergeant Thomas Tatum
Internal Affairs Investigator**

APPROVED BY: _____ DATE: _____

**Chief Deputy Mike Coffin
SHERIFF BEN F. JOHNSON
VOLUSIA COUNTY FLORIDA**