

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

REPORT OF INVESTIGATION

REPORT NUMBER: IA-13-024

PERIOD COVERED: November 5, 2013
DATE REPORTED: November 5, 2013
SUBJECT(S) NAME: Deputy Andrew Oliver ID 7949
INVESTIGATING OFFICER: Lieutenant Erik Eagan ID 2273

BASIS FOR INVESTIGATION:

On November 5, 2013, Deputy Andrew Oliver was involved in an on duty traffic crash on Providence Blvd just south of Alley 500 in Deltona, FL. The traffic crash was investigated by the Florida Highway Patrol (FHP) and Sergeant Charles Whitener, the Volusia County Sheriff's Office (VCSO) patrol supervisor on duty when the crash occurred. The finding of the FHP investigation revealed physical evidence and driver testimony inconsistent with Deputy Oliver's explanation of the traffic crash. FHP Sergeant Jacob Vaughn cited Deputy Oliver for Careless Driving (Inattentiveness resulting in an offset rear end collision). *(See Tab – C For VCSO Police Report and FHP Crash Report and Traffic Citation)*

OFFENSE:

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

26.2.107 Untruthfulness in an Official Proceeding (not under oath) - Employees shall not knowingly make false statements to a supervisor or to any official of a government agency during an official proceeding of the Department or other government agency even though such statements are not made under oath. *(Violation subject up to dismissal.)*

26.2.109 Falsification of Official Documents - Employees shall not knowingly falsify or knowingly cause another to falsify any official record or document. *(Violation subject up to dismissal.)*

26.2.129 Misdemeanor Injurious to the Department - Department personnel shall adhere to all federal, state and local laws and shall not commit any act or crime defined as a misdemeanor, first or second degree, whether chargeable or not, which brings discredit upon the Department or otherwise impairs the operation and efficiency of the Sheriff's Office and/or which is likely to impair the ability of personnel concerned to perform assigned duties. *(Violation subject to dismissal.)*

INVESTIGATIVE SUMMARY:

On November 6, 2013, Chief Deputy Mike Coffin assigned the Internal Affairs Unit an investigation for allegations against Deputy Andrew Oliver for being untruthful with his supervisor and investigating officers, submitting a false police report and making a false crash report with the Florida Highway Patrol (FHP). This report details the internal affairs investigation conducted by Lieutenant Erik Eagan.

On November 8, 2013, Investigator James Gabriel served Deputy Oliver with his Notification of Internal Investigation and he was provided a copy of the Law Enforcement Officer's Rights at the intersection of Graves Ave and Howland Blvd in Deltona, FL. *(See Tab – B for Official Correspondence)*

Sergeant Jacob Vaughn

On November 7, 2013, Lieutenant Eagan and Sergeant Tom Tatum conducted a sworn recorded interview with Sergeant Vaughn in the internal affairs office in DeLand, FL. The following is a summary of the interview:

Sergeant Vaughn is a twelve year law enforcement officer with the Florida Highway Patrol (FHP) and has been a supervisor for approximately one year. Sergeant Vaughn received specialized traffic crash training while he attended the basic law enforcement trooper academy. Sergeant Vaughn told investigators he was requested to the crash scene by Trooper Heather Ganem. Trooper Ganem had been dispatched to the scene and based on her preliminary investigation found Deputy Oliver at fault for the traffic crash.

Sergeant Vaughn told investigators his investigation and analysis of the evidence determined Deputy Oliver was at fault for the traffic crash. Sergeant Vaughn said Deputy Oliver told him he was traveling south on Providence Blvd in the inside lane (left lane of five lane road) and two other vehicles, a BMW and a Honda, were adjacent to his vehicle in the outside lane (right lane) traveling in the same direction. Deputy Oliver told Sergeant Vaughn the Honda swerved to the left and struck the back of the BMW and then also struck the right front of his patrol car.

Sergeant Vaughn explained the differences in the physical evidence and Deputy Oliver's testimony to him about how the traffic crash occurred. Sergeant Vaughn said the damage to Deputy Oliver's patrol car was at the same vertical height and pattern of the bumper and rubber trim molding on the dark blue BMW. He elaborated that the BMW bumper had dark blue paint and a black rubber trim molding. The same paint markings, color and rubbery consistency were on Deputy Oliver's right front fender. Sergeant Vaughn compared the damage on the bluish-green Honda and the damage to its left front bumper was not consistent with the damage on Deputy Oliver's patrol car. Sergeant Vaughn noted the bluish-green Honda had nothing on the left front fender that would have caused a black mark on Deputy Oliver's patrol car; but the left rear of the dark blue BMW had the blue painted bumper with a black rubber molding that was consistent with the transfer

markings.

Sergeant Vaughn told investigators he thought Deputy Oliver was lying to him while reporting the incident. Deputy Oliver's testimony was contrary to the evidence along with the two other drivers involved in the crash. Sergeant Vaughn continued saying, *"I'm 100% confident in my findings, meaning that, um, this damage is from this car, um which lanes they were in, there was no skid marks in the road so that's going straight off of witnesses."*

Sergeant Vaughn found fault and cited Deputy Oliver and the driver of the bluish-green Honda, Christian Rivera for careless driving. He described both drivers of rear-ending the dark blue BMW in a similar fashion one after the other. Deputy Oliver first impacted the dark blue BMW and then Mr. Rivera impacted the same portion of the BMW. (See Tab-F For Complete Transcript of Interview)

Trooper Heather Ganem

On November 8, 2013, Lieutenant Eagan and Sergeant Tom Tatum conducted a sworn recorded interview with Trooper Ganem in the internal affairs office in DeLand, FL. The following is a summary of the interview:

Trooper Ganem is a one and one half year law enforcement officer with the FHP. She told investigators she received specialized traffic crash investigation training while she attended the basic law enforcement school and additional agency specific traffic crash investigation training to the FHP.

Trooper Ganem told investigators she was the initial trooper who responded to the traffic crash involving Deputy Oliver on November 5, 2013. After conducting her initial investigation, her findings were that Deputy Oliver's testimony to her was not consistent with the crash scene evidence and the other parties' testimony. Deputy Oliver told Trooper Ganem he was not distracted and he was traveling in the inside lane when the blue Honda ran into the dark blue BMW and then ran into him. Deputy Oliver said the other two vehicles involved in the crash were traveling in the outside lane, adjacent to his patrol car.

Trooper Ganem questioned Deputy Oliver's inconsistencies with his explanation and her investigation. She said she went so far as to draw a rough diagram of the crash scene based on her investigation and show the diagram to Deputy Oliver. She stated, Deputy Oliver stuck with his explanation to her, but kept commenting, *"It all happened so fast."*

When Trooper Ganem determined the discrepancies with Deputy Oliver's explanation of the crash and that Deputy Oliver was at fault for the traffic crash, she contacted her on duty supervisor to respond to investigate independently. Trooper Ganem said Sergeant Vaughn responded to the scene and his investigation came to the same conclusion as hers. She said Sergeant Vaughn cited Deputy Oliver and the driver of the blue Honda, Mr. Rivera for careless driving. She described both at fault drivers as crashing similarly

into the dark blue BMW subsequent to one another. *(See Tab-G For Complete Transcript of Interview)*

Sergeant Charles Whitener

On November 8, 2013, Lieutenant Eagan conducted a sworn recorded interview with Sergeant Whitener in the internal affairs office in DeLand, FL. The following is a summary of the interview:

Sergeant Whitener is a ten year law enforcement officer with the Volusia County Sheriff's Office, with the past two years as a road patrol supervisor in District 4 – Deltona. Sergeant Whitener has forty hours of traffic crash investigation that he received when he completed his basic law enforcement training. He stated he also received some traffic crash training when he attended the VCSO field training and evaluation program (FTEP).

Sergeant Whitener was the closest on duty patrol supervisor who responded to Deputy Oliver's traffic crash on November 5, 2013. He said he arrived a few minutes after the crash occurred. Sergeant Whitener explained he could not reconcile the damage on the green [blue] Honda that Deputy Oliver said crashed into his patrol car from the adjacent travel lane. Sergeant Whitener said Trooper Ganem's traffic crash investigation found Deputy Oliver's patrol car had crashed into the dark blue BMW and then the greenish-blue Honda had crashed into the dark blue BMW in the same area and fashion as Deputy Oliver's patrol car.

Sergeant Whitener told Lieutenant Eagan that based on the physical evidence and the two trooper's traffic crash investigations; he believed Deputy Oliver was untruthful with him and the two troopers. Sergeant Whitener did qualify his statement by explaining that a traffic crash happens quickly and Deputy Oliver may not recall exactly how the crash occurred. Sergeant Whitener referenced a crash he had been involved in that he did remember being involved in. Sergeant Whitener thought Deputy Oliver falsely reported his traffic crash to law enforcement and falsified his official police report by writing: *"Deputy Oliver was traveling on the inside lane."* Sergeant Whitener could only guess that Deputy Oliver's motivation for lying was to avoid being in trouble and/or being found at fault for the traffic crash. *(See Tab-H For Complete Transcript of Interview)*

Christian Rivera

On November 14, 2013, Lieutenant Eagan conducted a sworn recorded interview with Mr. Rivera by phone. The following is a summary of the interview:

Mr. Rivera was the driver of the 1997 blue Honda Civic. Mr. Rivera told Lieutenant Eagan he had just picked up his fifteen year old sister, Jessenia Rivera from Daytona State College, where she is a student. He said he began following Deputy Oliver on Providence Blvd just south of Elkcam Blvd, which is consistent with Deputy Oliver's

automatic vehicle locator (AVL) information.

Mr. Rivera said he was following Deputy Oliver driving the marked patrol car and Deputy Oliver was following the dark colored BMW. He said all three vehicles were in the right hand lane, when the BMW slowed to turn into the Little Caesars Pizza driveway. Mr. Rivera stated, *"I remember seeing the deputy hit the brakes very suddenly and swerve to the left to try and avoid the BMW and he ended up hitting the back, the back left part of the BMW. So when, so when I saw him brake as suddenly, I saw him swerve, I suddenly hit the brakes and my car, the brakes locked on me, swerved and continued to skid and I ended up hitting the BMW also in the same spot, well basically the same spot."*

Mr. Rivera told Lieutenant Eagan he heard Deputy Oliver ask the driver of the BMW, *"Where did you come from?"* Mr. Rivera said the BMW driver responded to Deputy Oliver, *"I had my signal on and...I was hitting my brakes and I had my signal on."*

Mr. Rivera said he and the deputy received tickets for the traffic crash because they both ran into the dark BMW in nearly the same spot. *(See Tab-I For Complete Transcript of Interview)*

Juan Rodriguez

On November 18, 2013, Lieutenant Eagan conducted a sworn recorded interview with Mr. Rodriguez at 1560 Lexington Ave., DeLand, FL. The following is a summary of the interview:

Mr. Rodriguez told Lieutenant Eagan he was turning right into the Little Caesars Pizza driveway entrance when he noticed in his rearview mirror the lights from the car behind him and that car try to evade hitting him. Mr. Rodriguez felt the first impact and then he felt the second impact from the Honda hitting him. Mr. Rodriguez said his twelve year old daughter was riding with him when he was involved in the traffic crash.

Mr. Rodriguez described the event similarly to Mr. Rivera's description of the traffic crash. Mr. Rodriguez said the patrol car and the greenish blue Honda were traveling in the same lane as him. Mr. Rodriguez did not see Deputy Oliver change lanes prior to impacting his dark blue BMW. He was not aware of anyone being injured during the traffic crash. *(See Tab-J For Complete Transcript of Interview)*

Jessenia Rivera

On November 18, 2013, Lieutenant Eagan conducted a sworn recorded interview with Ms. Rivera by phone. The following is a summary of the interview:

Ms. Rivera is Mr. Rivera's fifteen year old sister who was riding with him directly behind the patrol car driven by Deputy Oliver. She confirmed that her brother had just picked her up from Daytona State College and they were headed home. Ms. Rivera told

Lieutenant Eagan that the dark BMW and the patrol car appeared to be pulling out of the Little Caesars Pizza. She admitted she was not paying attention prior to the crash; she was listening to music and looking out the window of the car.

Ms. Rivera said she only saw bits and pieces of the crash. She stated all three cars were in the same far right or outside lane prior to the crash. She later admitted she was not sure if the vehicles pulled out of the Little Caesars; she remembers the dark BMW and the patrol car were in the same lane prior to impact. Ms. Rivera sounded confused and unsure what happened when she described the traffic crash. *(See Tab-K For Complete Transcript of Interview)*

Deputy Andrew Oliver

On December 17, 2013, Lieutenant Eagan and Sergeant Tatum conducted a sworn recorded interview with Deputy Oliver at the Sheriff's conference room in the County Administration building in DeLand, FL. Also present were Teamsters Business Agent Bob Walker and Teamsters representative Brodie Hughes. The following is a summary of the interview:

Deputy Oliver described the traffic crash in the same manner that he described it to Trooper Ganem, Sergeants Whitener and Vaughn. He told investigators that he was traveling south on Providence Blvd in the left hand lane near the District 4 office. He continued by saying, *"I perceived to my right hand side which is my passenger side of my vehicle um that I was, something was either coming toward me or something was there in my right hand side um I naturally pulled the wheel to the left hand side and slammed on my brakes and veered all the way to the left hand side um I came to a complete stop."*

Deputy Oliver refuted the traffic crash occurred as Trooper Ganem and Sergeant Vaughn concluded. He said he did not recall a black or blue car traveling in front of him just prior to the traffic crash. When confronted with video surveillance evidence and screen shot photographs from the video footage from the Deltona Fire Station a few hundred feet from the traffic crash; Deputy Oliver admitted to seeing a vehicle in front of him in the video but was unsure what type of vehicle it was.

Deputy Oliver later admitted the traffic crash could have occurred the way the troopers concluded. Deputy Oliver makes several admissions in his sworn statement as he tries to explain why he took evasive action, *"I felt that I was, I was, my vehicle was getting hit or I was gonna hit it or whatever the case was."* Deputy Oliver denied that the vehicle was coming into his travel lane. He then changed his testimony stating, *"I felt that it was either coming in my lane or I was coming in contact with it."* Deputy Oliver later stated, *"I mean it's not as if I wasn't paying attention, I just, I don't have the answers for it you know, could it have happened a different way I mean sure it could've. I gave my best version of events that I knew, that to my knowledge of what happened and what I could, what I could see. That's all I could give and I did."*

Deputy Oliver contended that his police report and statement to troopers and Sergeant

Whitener were his perceptions of how he thought the crash occurred. He admitted that his typewritten police report was not consistent with the troopers' findings but based his report on his perception of how the crash occurred. After questioning, Deputy Oliver again explained to investigators why he took evasive action in response to a question from his Teamsters representative.

Deputy Oliver stated, *"That split second where just right there at your passenger side, you know just, I didn't know if it was coming into my lane, if I was, it just, it was right there. You know when I finally had locked eyes on it, realized that something was right there or perceived it to be anyway. I jerked the wheel to the left hand side just a natural bodily reaction. I mean it wasn't you know, I wasn't, it wasn't as if I you know had all the time in the world to just, I just, it was just a reaction. Just slamming the brakes and turning to the left hand side. Didn't know who, what was next to me or I mean going into oncoming traffic. I didn't, it, it just happened like that."*

Deputy Oliver concluded his interview using matchbox cars his Teamsters representative brought as a demonstrative aid. While configuring the matchbox cars on the conference room table, Deputy Oliver had trouble arranging the cars. He moved them around for several seconds in his attempt to position the cars in the positions he described to crash and internal affairs investigators as pre-crash car positions. After getting the cars in the pre-crash positions, he then moved the cars in a simulation of how he contended the crash occurred. Deputy Oliver still contended the greenish-blue Honda hit his patrol car and not that he hit the dark blue BMW.

When questioned, Deputy Oliver had the following response as to whether he felt he violated the following policy:

26.2.107 Untruthfulness in an Official Proceeding (not under oath) - No
Employees shall not knowingly make false statements to a supervisor or to any official of a government agency during an official proceeding of the Department or other government agency even though such statements are not made under oath. *(Violation subject up to dismissal.)*

26.2.109 Falsification of Official Documents - No
Employees shall not knowingly falsify or knowingly cause another to falsify any official record or document. *(Violation subject up to dismissal.)*

26.2.129 Misdemeanor Injurious to the Department - No
Department personnel shall adhere to all federal, state and local laws and shall not commit any act or crime defined as a misdemeanor, first or second degree, whether chargeable or not, which brings discredit upon the Department or otherwise impairs the operation and efficiency of the Sheriff's Office and/or which is likely to impair the ability of personnel concerned to perform assigned duties. *(Violation subject to dismissal.) (See Tab-L For Complete Transcript of Interview)*

CONCLUSION:

On January 13, 2014, this investigation was presented along with a collateral investigation referenced by IA-13-017 to the Sheriff and his administrative staff. After review, the Sheriff determined the violations of the below listed Department Standards Directive to be:

26.2.107 Untruthfulness in an Official Proceeding (not under oath) - Sustained
Employees shall not knowingly make false statements to a supervisor or to any official of a government agency during an official proceeding of the Department or other government agency even though such statements are not made under oath. *(Violation subject up to dismissal.)*

26.2.109 Falsification of Official Documents - Sustained
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On January 13, 2013, Deputy Oliver was served with his Notice of Intent to Terminate and Suspension Without Pay at his home in DeLand by Sergeant Tatum and Investigators Gabriel and Bennett. His assigned vehicle and equipment were collected by investigators.

On January 22, 2014, Deputy Oliver was scheduled to meet with the Sheriff for his pre-disciplinary hearing. The meeting was canceled by Deputy Oliver's Teamsters representative and Chief Steward Brodie Hughes. A Teamsters representative delivered Deputy Oliver's resignation letter. Sheriff Johnson waived Deputy Oliver's two week notice and accepted his resignation and waiver of appeal to the County Personnel Board. *(See Tab – B for Official Correspondence)*

EXHIBITS:

- A. Report Of Investigation
- B. Official Correspondence
- C. Complaint – FHP Crash Report and VCSO Police Report
- D. Advisement Administration Of Oath/Perjury Warning/Garrity Warning
- E. Official Transcript of Traffic Crash 13-30771 Callout - Radio Traffic
- F. Official Transcript Of Sergeant Jacob Vaughn
- G. Official Transcript Of Trooper Heather Ganem
- H. Official Transcript Of Sergeant Charles Whitener
- I. Official Transcript Of Christian Rivera
- J. Official Transcript Of Juan Rodriguez
- K. Official Transcript Of Jessenia Rivera
- L. Official Transcript Of Deputy Andrew Oliver
- M. Miscellaneous Documents
- N. Digital Media

WITNESSES:

Sergeant Jacob Vaughn
Florida Highway Patrol
386-736-5350

Trooper Heather Ganem
Florida Highway Patrol
386-736-5350

Sergeant Charles Whitener
Volusia County Sheriff's Office
386-860-7030

Christian Rivera
1368 Azora Dr.
Deltona, FL
305-496-5306

Juan Rodriguez
1931 W. Nemo Dr.
Deltona, FL
386-301-8046

Jessenia Rivera
1368 Azora Dr.
Deltona, FL
305-496-5306

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: 01.22.14


Lieutenant Erik Eagan
Internal Affairs Investigator

APPROVED BY: M.D. Coffin _____ DATE: 1/22/14


Chief Deputy Mike Coffin
SHERIFF BEN E. JOHNSON
VOLUSIA COUNTY FLORIDA