

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

REPORT OF INVESTIGATION

REPORT NUMBER: IA-14-005

PERIOD COVERED: February 26, 2014
DATE REPORTED: February 26, 2014
SUBJECT(S) NAME: Sergeant Sean Dwan ID 7110
INVESTIGATING OFFICERS: Lieutenant Erik Eagan ID 2273

BASIS FOR INVESTIGATION:

On February 26, 2014, Sergeant Sean Dwan was the onsite supervisor at the Daytona Beach Courthouse Annex responsible for the supervision of court security and bailiff operations. According to a supervisor's inquiry completed by Lieutenant Brian Barnard on March 3, 2014, Sergeant Dwan neglected his supervisory duties at the courthouse when he left his area of responsibility at the courthouse at 1655 hours. When Sergeant Dwan left, there were three active courtrooms in session and Sergeant Dwan knew or should have known the jury trials in two of the courtrooms were anticipated to run into the late evening hours.

Sergeant Dwan has shown a repeated pattern of negligence and failure to maintain the necessary skills, knowledge and abilities after instruction, counseling and discipline. *(See Tab - C For Police Report and Supervisor's Inquiry)*

OFFENSES:

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

26.2.17 Failure or Refusal to Work Overtime or Special Hours - Employees shall report for duty or remain on duty, when scheduled to or assigned to work overtime, special events or special shifts. *(Violation subject up to a 5 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.)*

26.2.41 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.)*

26.2.131 Department personnel are required to maintain the job knowledge, skills and abilities required for the performance of the duties and responsibilities attendant to their position as described by the County Merit System Job Classification Plan and Chapters 21, 22 and 35 of this Manual.

26.2.133 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.)*

INVESTIGATIVE SUMMARY:

On March 3, 2014, Chief Deputy Mike Coffin assigned the Internal Affairs Unit an investigation of an allegation against Sergeant Sean Dwan for being neglectful in his duties as a supervisor working at the Volusia County Courthouse Annex, Daytona Beach, FL. It is also alleged Sergeant Dwan has repeatedly not maintained the required job knowledge, skills and abilities required for the performance of the duties and responsibilities attendant to his position. This report details the internal affairs investigation conducted by Lieutenant Erik Eagan.

On March 5, 2014, Investigator Glen Bennett served Sergeant Dwan with his Notification of Internal Investigation and he was provided a copy of the Law Enforcement Officer's Rights at the intersection of Williamson and Bellevue, Daytona Beach, FL. *(See Tab - B for Official Correspondence)*

On March 7, 2014, Sergeant Dwan was served his Final Notice of Demotion by investigators Bennett and James Gabriel from an unrelated incident referenced by IA-14-001.

On March 10, 2014, Lieutenant Eagan obtained a copy of the monthly sign in/out sheet from [REDACTED], director of the [REDACTED], where Deputy Dwan's son attends class. The sign out sheet shows Deputy Dwan signed out his son from the [REDACTED] at 1720 hours on February 26, 2014. *(See Tab - K For Sign Out Sheet)*

Deputy Greg Wiggins

On March 10, 2014, Lieutenant Eagan conducted a sworn recorded interview with Deputy Wiggins at the Daytona Beach Courthouse Annex in Daytona Beach, FL. The following is a summary of that interview:

Deputy Wiggins is a three year deputy sheriff with the Volusia County Sheriff's Office and he has three years of experience as a corrections officer. He was assigned at the Daytona Beach Courthouse Annex as a front door screening deputy on February 26, 2014. Deputy Wiggins told Lieutenant Eagan that on February 26, 2014, he had a short conversation with Sergeant Dwan in the courthouse hallway about working late. Deputy Wiggins asked Sergeant Dwan, *"Do you really think we're gonna be here till eight*

o'clock?" Deputy Wiggins continued, "And he [Sergeant Dwan] says, well I won't cause I've got to get my kid at five o'clock, kind of joking, laughing it off."

Deputy Wiggins stated that Sergeant Dwan left the courthouse soon after their conversation about late court at approximately 1700 hours. Sergeant Dwan is seen on courthouse security video exiting the front door of the courthouse at 1655 hours. Sergeant Dwan returned to the courthouse hours later at approximately 1917 hours. He is seen on courthouse security video entering the limited access door on the eastside of the courthouse with his five year old son. Sergeant Dwan is wearing civilian clothing.

Deputy Wiggins told Lieutenant Eagan that when Sergeant Dwan returned to the courthouse after 1900 hours, Sergeant Dwan made the comment to him, "[I] thought you were joking about being here till eight o'clock." Deputy Wiggins said Sergeant Dwan did not enter the courthouse through the front door when he returned with his son. (See Tab - E For Complete Transcript of Interview)

Deputy Samantha Leising

On March 10, 2014, Lieutenant Eagan conducted a sworn recorded interview with Deputy Leising at the Daytona Beach Courthouse Annex in Daytona Beach, FL. The following is a summary of that interview:

Deputy Leising is a seven year deputy sheriff and has worked at the Daytona Beach Courthouse Annex for the past five years. She was working on February 26, 2014, as the control room deputy from 0700 until 1700 hours. She explained to Lieutenant Eagan that when Sergeant Hillyard or another sergeant is overseeing the courthouse, they always ask before they leave or they will call and inquire about what courts are in session and if there are any inmates at the courthouse. Deputy Leising stated that Sergeant Hillyard always notifies the control room when she leaves the building. She said Sergeant Dwan does not contact the control room to communicate he is leaving or inquire about court proceedings.

Deputy Leising told Lieutenant Eagan that each day around 1600 hours she queries the courthouse deputies to see if any courts are running past 1600 hours. She explained that she does this to verify proper staffing and coverage of all deputy assignments at the courthouse. She said she made the same inquiry on February 26, 2014, and there was radio traffic on the dedicated courthouse channel involved with staffing the late injunction hearing with an inmate and the two DUI jury trials that were in session. Deputy Leising stated that Sergeant Dwan did call her towards the end of each day to obtain daily statistics about new in custody inmates, number of transported inmates, etc. (See Tab - F For Complete Transcript of Interview)

Deputy Kevin Taylor

On March 10, 2014, Lieutenant Eagan conducted a sworn recorded interview with Deputy Taylor at the Daytona Beach Courthouse Annex in Daytona Beach, FL. The following is a summary of that interview:

Deputy Taylor is a sixteen year deputy sheriff, with the majority of his assignments in court services. Deputy Taylor replaced Deputy Leising as the control room deputy at 1700 hours on February 26, 2014. Deputy Taylor confirmed that the control room deputies ask court deputies daily what courts will run late for staffing needs. He did not recall Sergeant Dwan asking about late court, but did remember the control room asking deputies to work late to assist with the three late court sessions on February 26, 2014.

Deputy Taylor told Lieutenant Eagan that in his sixteen years' experience working at the courthouse; a supervisor was always aware of late court proceedings. He said it would depend on what late court proceedings were in session as to whether a sergeant would stay late. Deputy Taylor stated Sergeant Dwan did not make an inquiry to him before he left to see if there were any late court proceedings.

Deputy Taylor remembered Sergeant Dwan entered the controlled access east entrance of the courthouse when he returned in the late evening to the facility with his young son. Deputy Taylor said Sergeant Dwan was dressed in plain clothes when he returned. He stated Sergeant Dwan took his son into his office which is located adjacent to the control room and the holding cells. *(See Tab – G For Complete Transcript of Interview)*

Sergeant Jonelle Hillyard

On March 11, 2014, Lieutenant Eagan conducted a sworn recorded interview with Sergeant Hillyard by phone. The following is a summary of that interview:

Sergeant Hillyard is an eighteen year deputy sheriff and has worked as a supervisor in court services for close to seven years. On February 26, 2014, Sergeant Hillyard worked from 0645 hours until 1445 hours. She explained the sequence of events that were documented in Lieutenant Barnard's supervisor's inquiry.

Sergeant Hillyard said she keeps in constant contact with Lieutenant Barnard, her supervisor, just as she did on February 26, 2014. She explained that she notified Lieutenant Barnard of the late court proceedings because they were out of the norm. She said if court ran a few minutes after 1700 hours, she would not contact her lieutenant, but in the instant case, court was expected to run over a couple hours. Therefore she made her supervisor aware. She confirmed that this practice was normal for courthouse supervisors to notify their lieutenant of unusual circumstances at the courthouse.

Sergeant Hillyard told Lieutenant Eagan that had she been working Sergeant Dwan's work hours, she would have been aware of the late court proceedings and she would have stayed at the courthouse until the proceedings had concluded. She said she would have made arrangements with another courthouse supervisor if she had a schedule conflict or childcare issues preventing her to stay at the courthouse.

Sergeant Hillyard was told by courthouse deputies that Sergeant Dwan returned in plain clothes to the courthouse around 1900-1915 hours and he brought his five year old son with him. *(See Tab – H For Complete Transcript of Interview)*

Deputy Kenneth Hunt

On March 11, 2014, Lieutenant Eagan conducted a sworn recorded interview with Deputy Hunt by phone. The following is a summary of that interview:

Deputy Hunt is a twenty-five year deputy sheriff and he has three years' experience as a corrections officer and one year as a beach ranger. Deputy Hunt has worked the majority of his career in court services with the past eight years at the Daytona Beach Courthouse Annex.

Deputy Hunt normally works 0700 to 1700 hours and on February 26, 2014, he volunteered to hold over in the control room for the late court proceedings. Deputy Hunt told Lieutenant Eagan that evening there was a question about feeding the jurors. Deputy Hunt believed someone called one of the sergeants and Sergeant Dwan showed up at the courthouse. Deputy Hunt was not sure of the approximate time Sergeant Dwan returned to the courthouse. He said Sergeant Dwan was dressed in civilian attire and he had his young son with him.

Deputy Hunt told Lieutenant Eagan that Sergeant Dwan made a comment, *"I wish somebody would have told me we had a late court going, that he didn't know anything about it."* Deputy Hunt confirmed that the control room deputies check daily with the courthouse deputies by radio to find out if court will run past 1600 hours. Deputy Hunt thought that the radio traffic about the late court and positions that needed filling for court security was evidence of the late court proceedings that Sergeant Dwan claimed he was unaware of. Deputy Hunt said he didn't believe Sergeant Dwan had any intentions of returning to the courthouse based on Sergeant Dwan's statement he didn't know there was late court. *(See Tab - I For Complete Transcript of Interview)*

Deputy Sean Dwan

On March 14, 2014, Lieutenant Eagan and Sergeant Tom Tatum conducted a sworn recorded interview with Deputy Dwan in the Sheriff's conference room at the County Administration building in DeLand, FL. Also present was Teamsters' representative Brodie Hughes. The following is a summary of that interview:

Deputy Dwan told investigators he was the onsite supervisor at the Daytona Beach Courthouse Annex responsible for the daily operations on February 26, 2014, until 1700 hours when he left the courthouse. He said he was preoccupied with his personal life and was not attentive to his responsibilities at the courthouse at the end of the day. He admitted to being unaware of the late court proceedings even though there was radio traffic on the dedicated courtroom channel scheduling deputies to stay late to staff the events. Deputy Dwan stated, *"I, truthfully I just, with everything going on in my personal life. I just did not. I failed to do so. I just failed to do so... I really didn't think there was something going to be extended for a long period of time. I went to go pick up my son. It was my night to have him. My focus was on that and for that and for my dad and that was my rationale and that was the wrong thing to do. I should have been a little more thorough."*

Deputy Dwan remembered the short conversation that day with Deputy Wiggins just prior to leaving the courthouse, about court running late until 8 o'clock. Deputy Dwan stated, he thought Deputy Wiggins was joking with him about working late. Deputy Dwan told investigators, *"I just thought it was like funny, like a joke to him but I should have taken that more seriously and been more uh what's the word I'm looking for, a little more insightful and done my, done my job a little a little more thoroughly. I should have made other arrangements rather than just leaving and when I did. That's my error."*

Deputy Dwan explained the text message he sent to Lieutenant Barnard about knowing there was a jury trial still in session and his reply to the lieutenant, *'Actually, I was headed back there now.'* Deputy Dwan said he inadvertently left his portable radio on when he undressed at his home after picking up his son from school. Deputy Dwan stated when he later walked into his bedroom around 1900 hours, he heard radio chatter and decided to drive himself and his son to the courthouse to find out what was going on. Deputy Dwan told investigators he did not think to call the courthouse to find out why deputies were still there. He also explained that his father, who lives with him, was not in a condition to care for his young son, nor could he call his estranged wife because of the strained relationship between the two.

Deputy Dwan admitted to violating the VCSO Court Services Manual procedures and the Chief Judge's Court Order bringing his young son into the courthouse through a secure door and bypassing the security screening. He said because of the late hour, he wasn't thinking about using the front door or that the courthouse was open for business. Deputy Dwan acknowledged he did not perform properly as a supervisor on February 26, 2014, when he left the courthouse unsupervised with three late courts in session. He also admitted he has had a pattern of negligence and repeated failure to maintain the skills, knowledge and abilities of a supervisor during the past year. He accepted responsibility for his failures and the four recent disciplinary incidents during that time period. He also acknowledged his eleven disciplinary incidents in the past seven years ranging from two counseling matters, two verbal reprimands, five written reprimands and two suspensions without pay.

When questioned, Deputy Dwan had the following response as to whether he felt he violated the following policies:

- | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------|------------|
| 26.2.17 Failure or Refusal to Work Overtime or Special Hours – | Yes |
| 26.2.34 Failure to Follow Directive or Order – | Yes |
| 26.2.41 Negligence Associated with Safety of Persons or Property – | Yes |
| 26.2.131 Department personnel are required to maintain the job knowledge, skills and abilities - | Yes |
| 26.2.133 Repeated failure to maintain necessary skills, knowledge and abilities -
<i>(See Tab – J For Complete Transcript of Interview)</i> | Yes |

CONCLUSION:

On March 21, 2014, this investigation was presented to the Sheriff and his administrative staff. After review, the Sheriff determined the violations of the below listed Department Standards Directive to be:

26.2.17 Failure or Refusal to Work Overtime or Special Hours – Sustained

26.2.34 Failure to Follow Directive or Order – Sustained

26.2.41 Negligence Associated with Safety of Persons or Property – Sustained

26.2.131 Department personnel are required to maintain the job knowledge, skills and abilities - Sustained

26.2.133 Repeated failure to maintain necessary skills, knowledge and abilities - Sustained

Sheriff Ben Johnson tentatively determined Deputy Dwan would serve a ten (10) day suspension without pay which equates to eighty (80) hours, for his discipline as a result of this internal investigation.

On March 24, 2014, Sergeant Tatum served Deputy Dwan with his Intent to Suspend letter at the Volusia County Justice Center in Daytona Beach, FL.

On April 3, 2014, Deputy Dwan met with Sheriff Johnson for a pre-disciplinary hearing in the Sheriff's conference room at the Volusia County Administration building in DeLand, FL. Also present during the hearing were Chief Deputy Mike Coffin, Major Rocky Norris, Lieutenant Eagan and Teamsters representative Bob Walker. After earnest consideration; Sheriff Johnson decided to reduce Deputy Dwan's suspension to five (5) days without pay which equates to forty (40) hours. Deputy Dwan will serve his suspension without pay from April 28 – May 2, 2014.

On April 11, 2014, Investigator Bennett served Deputy Dwan with his Final Notice of Suspension letter at the Volusia County Justice Center in Daytona Beach, FL.

EXHIBITS:

A. Report Of Investigation

B. Official Correspondence

C. Complaint – Supervisor's Inquiry

D. Advisement Administration Of Oath/Perjury Warning/Garrity Warning

- E. Official Transcript Of Deputy Greg Wiggins
- F. Official Transcripts Of Deputy Samantha Leising
- G. Official Transcript Of Deputy Kevin Taylor
- H. Official Transcript Of Sergeant Jonelle Hillyard
- I. Official Transcript Of Deputy Kenneth Hunt
- J. Official Transcript Of Deputy Sean Dwan
- K. Miscellaneous Documents
- L. Digital Media

WITNESSES:

Lieutenant Brian Barnard
Volusia County Sheriff's Office
386-736-5961

Deputy Greg Wiggins
Volusia County Sheriff's Office
386-736-5961

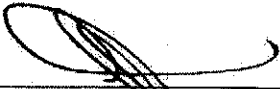
Deputy Samantha Leising
Volusia County Sheriff's Office
386-736-5961

Deputy Kevin Taylor
Volusia County Sheriff's Office
386-736-5961

Sergeant Jonelle Hillyard
Volusia County Sheriff's Office
386-736-5961

Deputy Ken Hunt
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.

INVESTIGATOR:  DATE: 4.11.14

**Lieutenant Erik Eagan
Internal Affairs Investigator**

APPROVED BY:  DATE: 4/14/14

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