

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

REPORT OF INVESTIGATION

REPORT NUMBER: IA-14-010

PERIOD COVERED: April 30, 2014
DATE REPORTED: April 30, 2014
SUBJECT(S) NAME: Senior Deputy Jeff Hoffman ID 2326
INVESTIGATING OFFICERS: Lieutenant Erik Eagan ID 2273

BASIS FOR INVESTIGATION:

On April 30, 2014, Senior Deputy Jeff Hoffman conducted a traffic stop on Melvin Thaler at the intersection of Howland Blvd. and Loblolly St., Deltona, FL. Dr. Thaler received a uniform traffic citation (UTC) from Deputy Hoffman for operating an all-terrain vehicle (ATV) on a public road in violation of FSS 316.2074 (5). However, Dr. Thaler was operating a lawfully registered (ATV) vehicle from the state of South Dakota. That same day Dr. Thaler contacted the Sheriff's Office to complain about receiving the citation, the subsequent tow fee and the alleged unprofessionalism displayed by Deputy Hoffman during the traffic stop. It is alleged Deputy Hoffman negligently issued Dr. Thaler the UTC because Dr. Thaler was in compliance with the law and tried to explain and provide proof of his valid vehicle registration from South Dakota. Deputy Hoffman's supervisor, Sergeant Joel Turney conducted an investigation into this matter and purposely did not interview Deputy Hoffman. The matter was referred to the Internal Affairs Unit for investigation. *(See Tab - C For Citation and Supervisor's Inquiry)*

OFFENSES:

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

26.2.40 Negligence, Not Endangering - Employees shall not ignore or violate official Directives, orders, or supervisory instructions or knowingly fail to properly execute the duties and responsibilities of their assigned positions. *(Violation subject up to a 5 day suspension.)*

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.)*

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

INVESTIGATIVE SUMMARY:

On May 14, 2014, Chief Deputy Mike Coffin assigned the Internal Affairs Unit an investigation of an allegation against Senior Deputy Jeff Hoffman for being neglectful in his duties as a traffic enforcement deputy working in Deltona, FL. It is alleged Deputy Hoffman was discourteous during his traffic stop and he did not maintain the 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 May 15, 2014, Sergeant Tom Tatum served Deputy Hoffman with his Notification of Internal Investigation and he was provided a copy of the Law Enforcement Officer's Rights at the County Administration building in DeLand, FL. *(See Tab - B for Official Correspondence)*

Dr. Melvin Thaler, DDS

On June 18, 2014, Lieutenant Eagan conducted a sworn recorded interview with Dr. Thaler by phone. The following is a summary of that interview:

Dr. Thaler explained he and his wife are seasonal residents of Florida and South Dakota. Since the incident, Dr. Thaler and his wife had traveled back to South Dakota for approximately six months. Dr. Thaler is a retired US Army colonel and dentist. Dr. Thaler told Lieutenant Eagan he encountered Deputy Hoffman on April 30, 2014, while on a trip to purchase gasoline for his road worthy ATV. He explained that he spent more than \$1,500 making his side-by-side style ATV Department of Transportation (DOT) compliant so he could register the vehicle in South Dakota and operate it in other states.

The encounter occurred near Howland Blvd. and Loblolly St., Deltona, FL and according to Dr. Thaler; Deputy Hoffman immediately asked him in a loud voice, *"What the hell I was doing driving that machine on the road and that I knew better. He said I warned you before and what are you doing out here on that, on that machine?"*

Dr. Thaler told Deputy Hoffman that the two had never met before and that he had his vehicle registered in South Dakota. According to Dr. Thaler, Deputy Hoffman was dismissive and told him, *"That doesn't mean anything here."* Dr. Thaler said Deputy Hoffman told him he was towing his vehicle and that if he didn't shut up and stop

arguing with him, he would handcuff him and take him to jail. Dr. Thaler alleged Deputy Hoffman threatened to arrest him two or three times during their encounter. Dr. Thaler explained to Lieutenant Eagan, *"Well like I said, I honestly think he thought he had warned me before and I'm sure that pissed him off. I mean it would be me if I told someone not to do something and I caught them two weeks later doing it again."*

Dr. Thaler had a friend of a friend tow his ATV to his home approximately two miles away. Dr. Thaler said he paid \$50 for the tow. Dr. Thaler believed Deputy Hoffman forced him to have his vehicle towed.

At the conclusion of the interview, Dr. Thaler told Lieutenant Eagan that he thought he saw Deputy Hoffman on his police motorcycle approximately twenty minutes after the traffic stop in his subdivision directing traffic for an injured construction worker. *"I was pretty sure it was Deputy Hoffman. He's rather an unmistakable character. I don't know how many motorcycle police officers Volusia County has but..."* Dr. Thaler lives in the Victoria Hills subdivision in the City of DeLand.

Lieutenant Eagan located a computer aided dispatch (CAD) call record which documents VCSO motor deputies Keith Dalton and Steve Bryan responded to and arrived at an *injured person from a fall incident*, which is referenced by VCSO call #P141200883. VCSO motor deputies responded to the call within the City of DeLand for ground support because the VCSO Air One helicopter was utilized to medevac the injured person and transport him to the hospital.

Deputy Heriberto Borges

On June 27, 2014, Lieutenant Eagan and Sergeant Tatum conducted a sworn recorded interview with Deputy Borges at the Internal Affairs' office at the County Administration building in DeLand, FL. The following is a summary of that interview:

Deputy Borges is a nine year law enforcement officer and has worked for the Sheriff's Office for almost a year. Deputy Borges told investigators he remembers backing up Deputy Hoffman on April 30, 2014. However, he did not remember witnessing any conversation between Deputy Hoffman and Dr. Thaler. Deputy Borges said he allowed Deputy Hoffman to use his mobile data computer (MDC) to lookup the state statute for Dr. Thaler operating an ATV on a public road. Deputy Borges left soon after Deputy Hoffman used his MDC.

Deputy Borges told investigators he would not have issued Dr. Thaler a traffic citation for operating a registered ATV on the public road. He explained that in his nine year law enforcement career, he has never come across a legally registered ATV and therefore he would seek supervisor assistance to determine if there was a violation of law. *(See Tab - F For Complete Transcript of Interview)*

Senior Deputy Jeffrey Hoffman

On July 2, 2014, Lieutenant Eagan and Sergeant Tatum conducted a sworn recorded interview with Senior Deputy Hoffman in the Sheriff's conference room at the County Administration building in DeLand, FL. The following is a summary of that interview:

Deputy Hoffman described the traffic stop with Dr. Thaler on April 30, 2014, in a similar description as Dr. Thaler. However, Deputy Hoffman denied using any profanity, including, "Hell." Deputy Hoffman said the initial conversation began with Deputy Hoffman telling Dr. Thaler he could not drive his ATV on public roads. He told investigators that Dr. Thaler immediately began justifying his driving on public roads; citing his research of DOT requirements, his expense of vehicle accessories and that he registered the vehicle in South Dakota.

Deputy Hoffman stated that he made his determination to issue Dr. Thaler a nonmoving traffic citation for operating an ATV on a public road; after reviewing Dr. Thaler's South Dakota vehicle registration, his insurance card and his Florida driver's license. Deputy Hoffman contended that because Dr. Thaler had a Florida driver's license and was a Florida resident; he did not meet the requirements of the nonresident exemption referenced by FSS 320.37. Deputy Hoffman believed his traffic stop and subsequent issuance of the nonmoving infraction was lawful and proper under the circumstances.

Deputy Hoffman said he did not order Dr. Thaler to tow his ATV, but cautioned him that he could not operate the ATV on the public roads. Deputy Hoffman stated he told Dr. Thaler he would tow the vehicle if he caught him operating the ATV on the roadway.

Deputy Hoffman denied ever threatening Dr. Thaler that he would be arrested or placed in handcuffs. Deputy Hoffman told investigators he was controlling when he spoke with Dr. Thaler when he tried several times to explain why he could not operate the out-of-state registered ATV on Florida public roads. He said the only time he could have been perceived as rude by Dr. Thaler was when he told Dr. Thaler, "*Stop interrupting, you're being rude.*"

Deputy Hoffman stated during the traffic stop, he called Deputy Matthew Tremblay, a motor deputy on duty to see if Deputy Tremblay knew the traffic statute for operating an ATV on a public road. According to Deputy Hoffman, Deputy Tremblay did not know the statute and Deputy Hoffman eventually looked up the applicable statute on Deputy Borges' MDC.

After the traffic stop; Deputy Hoffman called the on duty patrol supervisor, Sergeant Jason Stickels to verify his understanding of the ATV statute and to inform Sergeant Stickels of the possibility of receiving a complaint from the traffic violator he had just written a traffic citation to. According to Deputy Hoffman, Sergeant Stickels was in agreement with Deputy Hoffman's interpretation of the ATV statute.

Deputy Hoffman told investigators that soon after the traffic stop, he drove to the local tag office at the intersection of Elkcam Blvd. and Howland Blvd., Deltona, FL; to verify

the ATV registration process in Florida. The tag office was identified as a private tag agency; Auto Tag Management Group, DBA/fictitious name: First Deltona Tag Agency. Deputy Hoffman said he spoke with an employee of the agency who told him that a Can Am side by side ATV could not be registered as a motor vehicle in the state of Florida. Deputy Hoffman did not recall the employee's name.

Deputy Hoffman denied responding to a call in Dr. Thaler's neighborhood or driving by his home after the traffic stop.

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

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|--|------------|
| 26.2.40 Negligence, Not Endangering – | No |
| 26.2.47 Courtesy – | No* |
| 26.2.131 Failure to maintain required skills, knowledge and abilities – | No |
| Volusia County Merit System Rules and Regulations 86-453 (13) – | No |

*Deputy Hoffman told investigators, *"With the exception of telling him [Dr. Thaler] not to interrupt and stop being rude. I did not violate."* (See Tab – G For Complete Transcript of Interview)

Lieutenant Eagan researched Dr. Thaler's residency status by checking the Volusia County Property Appraiser and the Volusia County Revenue Division websites for his residence located at 401 Victoria Hills Dr., DeLand, FL. The Revenue Divisions' website indicates that Dr. Melvin and Lucille Thaler have owned and paid property taxes on their residential property since 2004. In 2013, the Thaler's residential property taxes received a homestead exemption credit of \$25,000 and an additional homestead exemption of \$25,000. (See Tab – J For Miscellaneous Documents)

Lieutenant Eagan also researched Dr. Thaler's Florida and South Dakota driver's license status. Dr. Thaler's South Dakota driver's license status is **"inactive"** with a notation that he **"moved out of state."** His residential address on his Florida driver's license is the same as the one noted on the Volusia County Property Appraiser and the Volusia County Revenue Division websites. Dr. Thaler's **Florida driver's license** application and issue date was December 4, 2012. His voter application status on his driver's license record indicates – **"Motor Voter: New."** (See Tab – J For Miscellaneous Documents)

Based on Dr. Thaler's active DeLand homestead exemption status, his new Florida voting status, his valid Florida driver's license and his inactive South Dakota driver's license; all documents indicate that Dr. Thaler is a resident of the state of Florida and does not meet the requirements of the nonresident exemption to motor vehicle registrations referenced in Florida Statute 320.37.

Sergeant Jason Stickels

On July 2, 2014, Lieutenant Eagan conducted a sworn recorded phone interview with Sergeant Stickels. The following is a summary of that interview:

Sergeant Stickels is an eleven year law enforcement officer; ten years of which he has worked for the Sheriff's Office. Sergeant Stickels remembered being contacted by Deputy Hoffman a couple of months ago regarding a traffic stop involving a side by side ATV. Sergeant Stickels believed Deputy Hoffman called him soon after the traffic stop. He did not remember all the particulars of his conversation with Deputy Hoffman; but recalled the traffic stop had something to do with a Can Am ATV being registered out of state and the driver of the vehicle lived locally. The driver was not happy with Deputy Hoffman issuing him a citation for operating an ATV on the roadway. Deputy Hoffman gave Sergeant Stickels the basic facts of the traffic stop in case the driver called to complain about receiving a traffic citation. *(See Tab – H For Complete Transcript of Interview)*

Deputy Matthew Tremblay

On July 2, 2014, Lieutenant Eagan conducted a sworn recorded phone interview with Deputy Tremblay. The following is a summary of that interview:

Deputy Tremblay is a thirteen year law enforcement officer; eleven years of which he has worked for the Sheriff's Office. Deputy Tremblay vaguely remembered receiving a phone call from Deputy Hoffman while he was on a traffic stop a couple of months ago. Deputy Tremblay said, *"He [Deputy Hoffman] said that there was an out-of-state, side-by-side off-road vehicle that's not recognized by Florida but this other state recognized it and he was trying to find out the statute for the off-road vehicles in Florida."* Deputy Tremblay did not know the statute or have it readily available and the call concluded. *(See Tab – I For Complete Transcript of Interview)*

CONCLUSION:

On July 8, 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:

- | | |
|--|----------------------|
| 26.2.40 Negligence, Not Endangering – | Not Sustained |
| 26.2.47 Courtesy – | Not Sustained |
| 26.2.131 Failure to maintain required skills, knowledge and abilities – | Not Sustained |
| Volusia County Merit System Rules and Regulations 86-453 (13) – | Not Sustained |

EXHIBITS:

- A. Report of Investigation
- B. Official Correspondence
- C. Complaint/Supervisor Inquiry
- D. Administration of Oath/Perjury Warning
- E. Official Transcript of Dr. Melvin Thaler
- F. Official Transcript of Deputy Heriberto Borges
- G. Official Transcript of Senior Deputy Jeff Hoffman
- H. Official Transcript of Sergeant Jason Stickels
- I. Official Transcript of Deputy Matthew Tremblay
- J. Miscellaneous Documents
- K. Digital Media

WITNESSES:

Dr. Melvin Thaler
401 Victoria Hills Dr.
DeLand, FL
605-335-2783

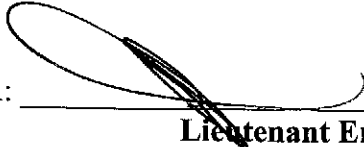
Deputy Heriberto Borges
Volusia County Sheriff's Office
386-736-5961

Sergeant Jason Stickels
Volusia County Sheriff's Office
386-736-5961

Deputy Matthew Tremblay
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.

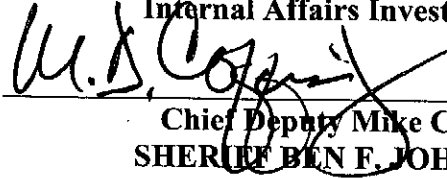
INVESTIGATOR: _____



**Lieutenant Erik Eagan
Internal Affairs Investigator**

DATE: 07.08.14

APPROVED BY: _____



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

DATE: 7/10/14