

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

REPORT OF INVESTIGATION

REPORT NUMBER: IA-15-014

PERIOD COVERED: September 2014 – August 2015
DATE REPORTED: August 14, 2015
SUBJECT(S) NAME: Sergeant Charles Whitener #6844
INVESTIGATING OFFICER: Sergeant Justin G. Sawicki #7179

BASIS FOR INVESTIGATION:

On August 14, 2015, Sergeant Justin Sawicki received a supervisor inquiry composed by Lieutenant Don Taylor. The subject of the supervisor inquiry was Sergeant Charles Whitener, regarding policy violations after warning.

Chief Deputy Robert Jones, III assigned the case for investigation by the Internal Affairs Unit. The supervisor inquiry completed by Lieutenant Don Taylor is referenced by memorandum number: 054M067.15 and is attached and made part of this investigation. *(See Tab – C)*

OFFENSE(S):

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.)*

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.)*

26.2.33 Inattention to Duties, Loafing, Sleeping - Employees shall be attentive to job duties and shall not neglect work by inattention, loafing, or sleeping while on duty. *(Violation subject up to a 1 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.)*

26.2.133 General Proficiency - 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.)*

26.2.136 Knowledge of Official Directives - Three disciplinary actions of unrelated but minor nature within a six (6) month period shall constitute a continued failure to maintain and demonstrate knowledge of the policies and procedures established by Standards Directives and shall result in remedial training. *(Violation subject up to a 15 day suspension.)*

26.2.137 Knowledge of Official Directives - Subsequent violations and recurrent failure to maintain and demonstrate knowledge of Directives, rules & regulations or standard operating procedures may be cause for dismissal.

INVESTIGATIVE SUMMARY:

On August 14, 2015, Chief Deputy Robert Jones, III assigned the above-described incident to the Internal Affairs Unit for investigation. This report details the investigation conducted by Sergeant Justin Sawicki.

On August 28, 2015, Investigator Glen Bennett served Sergeant Charles Whitener with a Notice of Internal Investigation in Deltona, Florida. Sergeant Whitener was provided with a copy of the law enforcement officer bill of rights. *(See Tab – B for Official Correspondence)*

Sergeant Sawicki reviewed the supervisor inquiry completed by Lieutenant Taylor, the following is a summary of the inquiry:

The supervisor inquiry was completed on August 07, 2015, and detailed recent discipline and a Personnel Early Warning Intervention that was received by Sergeant Whitener on July 31, 2015. The inquiry details a few recent issues that were observed by Lieutenant Taylor. On August 03, 2015, Sergeant Whitener was scheduled to work an overtime shift in District Four between the hours of 0800 and 2000 hours. Sergeant Whitener neglected to report to duty for the overtime shift. Lieutenant Taylor wrote that he attempted to contact Sergeant Whitener via telephone (voice and text) through his personal and county issued cellular telephones to no avail. Lieutenant Taylor requested Sergeant Austin Hairston attempt to make contact with Sergeant Whitener at his [Sergeant Whitener's] residence. Sergeant Hairston noted that Sergeant Whitener's personal and county issued vehicles were in the driveway; however, he was unable to receive an answer at the door. Lieutenant Taylor was forced to contact other off-duty sergeants to try and gain shift coverage. Ultimately, Sergeant Sean Gowan volunteered to work the shift. Sergeant Whitener later contacted Lieutenant Taylor via telephone and stated he was busy doing yard work during the prior telephone calls and attempt to contact by Sergeant Hairston. Sergeant Whitener informed Lieutenant Taylor he neglected to input the overtime date on his calendar, and he forgot he had volunteered to work the shift. Sergeant Whitener ultimately reported for duty at 1030 hours, thus Sergeant Gowan was canceled.

On August 06, 2015, Lieutenant Taylor was contacted by Sergeant Gowan in regards to an arrest made by Deputy Justin Lococo. The arrest was for fraudulent use of credit cards [FSS 817.61], which is a misdemeanor and is not classified as a misdemeanor exception. Deputy Lococo made the arrest at 1339 hours on August 06, 2015. According to the Records Management System (RMS), Sergeant Whitener viewed the report at 16:16:05 and later approved the report at 16:16:18; the total elapsed time RMS indicates Sergeant Whitener reviewed the report was for thirteen seconds. The defendant in the case was transported to the Volusia County Branch Jail (VCBJ) and turned over to correctional staff at 1739 hours. According to the supervisor inquiry, Sergeant Gowan rectified the improper charge by ordering Deputy Lococo to complete a supplemental SA-707B form charging the defendant with Unlawful Possession of a Stolen Credit or Debit Card [FSS 817.60(8)], which is classified as a felony.

Sergeant Sawicki reviewed a memorandum that was completed by Captain Erik Eagan in regard to Sergeant Whitener receiving the Personnel Early Warning Intervention. The memorandum was completed and signed by Sergeant Whitener on July 31, 2015, and is referenced by memorandum number: 054M062.15. Captain Eagan wrote the following as a basis for the memorandum being completed:

“Based on your recent discipline history, a Personnel Early Warning Intervention alert has prompted this notice. This memorandum shall serve as your last and best warning that any future policy violations involving neglect of duty, lack of job knowledge, skills, and/or ability, or general supervisory failures may result in adverse discipline. Any subsequent activity of a similar nature will result in more severe administrative action, up to and including dismissal. Take due care and govern yourself accordingly. Be especially aware of Progressive Discipline 26.1.1.”

Captain Eagan then articulated the discipline Sergeant Whitener has received from January of 2015 to June of 2015.

The following is a synopsis of the discipline received by Sergeant Whitener since January of 2015:

- *January 19, 2015, SD-15-043, 26.2.133 Repeated Failure to Maintain Required Skills*
 - **Letter of Reprimand** for not making proper notifications to supervisor(s) and steps to become more knowledgeable as a four-year supervisor. Also documented written correspondence completed by Sergeant Whitener contained numerous errors and required several revisions.

- *January 26, 2015, SD-15-021, 26.2.131 General Proficiency*
 - **Verbal Reprimand** for written reports and correspondence containing numerous grammatical and content errors which required several revisions. Failure to properly complete timecards in the KRONOS system. Failure to correctly input information into the supervisor’s consolidated report log (two occasions in a one

month timeframe).

- *March 07, 2015, SD-25-065, 26.2.133 Repeated Failure to Maintain Required Skills
26.2.040 Negligence not Endangering*
 - **Letter of Reprimand** for not completing a Response to Resistance report in a timely fashion. Approval of subordinates' reports that lacked necessary details of the investigation and allowing a deputy to include his personal opinion in a report. Reviewing and approving a transfer request that contained multiple errors and had a wrong filing number associated with it (letter number instead of a memorandum number). Sergeant Whitener had to make corrections three times on a subordinate's annual evaluation and giving a subordinate an exceeds standards rating on an annual evaluation when the deputy was suspended and made numerous errors throughout the rating period that would not warrant an exceeds standards evaluation. Failed to respond to a lieutenant's e-mail regarding a prisoner that was admitted to the hospital, in which the lieutenant queried the sergeant as to why the incident was not entered into the consolidated report log nor was the VCBJ notified of the incident. Sergeant Whitener scheduled two sergeants to cover the same shift for him on the same dates, this occurred twice.

- *June 24, 2015, SD-15-088, 26.2.123 Prompt Compliance with Lawful Order
26.2.133 Repeated Failure to Maintain Required Skills*
 - **Letter of Reprimand** Sergeant Whitener was tasked with finding a deputy to work at a hearing in the City of Deltona. Another sergeant found a volunteer and Sergeant Whitener was notified via e-mail. On the day of the hearing a lieutenant sent Sergeant Whitener an e-mail reminding him of the detail. Sergeant Whitener neglected to ensure the deputy reported to the detail for the City of Deltona and the detail was unmanned.

It should be noted the aforementioned disciplinary documents were all signed by Sergeant Whitener and provided ways for Sergeant Whitener to improve his abilities and administrative tasks. The documents also articulated that any further violations similar in nature would result in progressive discipline as found in directive 26.1.1. (*See Tab – H for Discipline Documents*)

Lieutenant Don Taylor

On September 10, 2015, Sergeant Sawicki conducted a sworn recorded interview with Lieutenant Don Taylor at the VCSO District Four office in Deltona, FL. The following is a summary of that interview:

Lieutenant Taylor has been employed with the VCSO for just over nineteen years. Lieutenant Taylor is currently an Assistant Commander over patrol operations in District Four. He has held positions in patrol, civil and has been the Assistant Commander at the communications center, District Two and District Four. Prior to working at VCSO, Lieutenant Taylor was in the United States Coast Guard for five years.

Since February of 2015, Lieutenant Taylor has been assigned to District Four and he has been Sergeant Whitener's immediate supervisor during that time. Lieutenant Taylor advised prior to his supervision, Lieutenant Brian Henderson was Sergeant Whitener's immediate supervisor. Lieutenant Taylor was asked if he completed a supervisor inquiry into the performance of Sergeant Whitener, and he stated he did and when asked why the supervisor inquiry was completed, Lieutenant Taylor said the following:

"His general proficiency wasn't up to par. His direction with his deputies, reports, etc. His overall performance as a sergeant was, didn't meet the minimum requirements set by the Sheriff's Office. He had done several things and at the direction, our conversation with the captain and myself and Lieutenant Henderson we decided that was the best route to take."

Lieutenant Taylor stated the outcome of the inquiry showed that Sergeant Whitener "...didn't meet standards...he continued to fail at anything he was doing." Sergeant Whitener's lack of knowledge and general deficiencies were documented in Employee Performance Notices (EPN), Letter of Reprimands (LOR), and quarterly evaluations completed by Lieutenant Taylor and Lieutenant Henderson. Lieutenant Taylor confirmed that all of the discipline and issues Sergeant Whitener was experiencing were similar in nature, and that there has been minimal improvement since he [Lieutenant Taylor] began supervising the sergeant.

Sergeant Whitener's day to day work practices were described by Lieutenant Taylor as, "*On his best day, he's meets standards and on an average day he needs improvement.*" Lieutenant Taylor indicated that he and other District Four command staff would provide remedial training to Sergeant Whitener on a daily basis. Lieutenant Taylor described that by saying:

"He was required, he was ordered to come to my office daily where we would cover issues. His duties and responsibilities for calls for service. Deputies, how to train a new deputy. Bringing new deputies in. What's required of them. How to give them direction. What direction they needed. What calls he needed to go on to assist them with. Etcetera."

Sergeant Whitener was encouraged by District Four command staff to seek out supervisory training classes for law enforcement. Lieutenant Taylor stated Sergeant Whitener took a line supervision class, however he described Sergeant Whitener's response to all training by stating, "*It helps his issue is if I tell him something he'll do it today. Ten days down the road he forgets.*" Lieutenant Taylor advised, he felt that Sergeant Whitener would understand what he was taught by his superiors, however, he would have issues with retaining and correlating the information to the day to day functions of a road patrol sergeant.

Lieutenant Taylor stated when Sergeant Whitener was presented with his disciplinary documents and evaluations that he [Sergeant Whitener] understood the issues, the steps he needed to take to improve, and the progressive discipline directive. In Lieutenant Taylor's opinion, he feels Sergeant Whitener lacks decision making abilities and relies on fellow on-duty sergeants to assist him with making decisions on a regular basis.

The Lieutenant was questioned about Sergeant Whitener's no call/no show on August 03, 2015. Lieutenant Taylor stated, he was at his office when he received a telephone call from an on-duty sergeant stating that the 0800 hours sergeant was not logged on. Lieutenant Taylor researched his schedule to ascertain who was scheduled to work the overtime shift. Lieutenant Taylor confirmed Sergeant Whitener had volunteered to take the shift from a fellow sergeant. Lieutenant Taylor advised, he called both Sergeant Whitener's personal and county issued cellular telephones and sent several text messages to his [Sergeant Whitener] personal cellular telephone. Another sergeant that was on duty in the area where Sergeant Whitener resides was asked to travel to his [Sergeant Whitener's] residence and try to make contact with him. The attempt to contact proved to be fruitless, thus Lieutenant Taylor contacted Sergeant Gowan to gain coverage for the now vacant sergeant position. Sergeant Whitener finally returned the lieutenant's telephone call and he told the lieutenant, "He doesn't know how he forgot it or missed it but he was out in the back cutting the lawn on the tractor which is part of his agreement with the County and he would be in as soon as he got dressed." Lieutenant Taylor stated prior to this incident, he taught and encouraged Sergeant Whitener to utilize several means to complete a schedule/calendar for himself, via Microsoft Outlook, e-mails, cellular telephones, and calendars.

The lieutenant was queried about the arrest made on August 06, 2015, by Deputy Lococo for a credit card fraud case. Lieutenant Taylor stated the deputy utilized the incorrect state statute for the case. Deputy Lococo utilized a misdemeanor that is not a misdemeanor exception in-lieu of utilizing the proper felony charge to validate the arrest. Lieutenant Taylor stated Sergeant Whitener approved the report prior to the defendant being released to correctional staff at the VCBJ, and he [Sergeant Whitener] neglected to observe the incorrect charge when approving the report. Sergeant Gowan later brought the issue to the lieutenant's attention, and Sergeant Gowan advised that he had Deputy Lococo remedy the issue by completing a SA-707B form indicating the defendant would be charged with the applicable felony charge.

When asked if he felt Sergeant Whitener was a competent supervisor, Lieutenant Taylor said, "No." When asked if there is anything else that can be completed to assist Sergeant Whitener's performance, Lieutenant Taylor stated the following:

"If there is I do not know. I don't know if I; he has another sergeant here. The good and the bad with another sergeant. He's had sergeants that are strong sergeants. That took the lead and he could hide back in the shadows and he didn't have to do them. And I will tell you, I will add this. And I've told him this. You have to be good at something either going to calls and handling, being a great call handler, being able to go to the troops to give direction, handle big heavy calls. Or you gotta be the guy that comes in here that can take care of all the reports and be able to go through all that stuff and make all the corrections, make sure we're covered. You know when you're lacking in both of those areas that causes issues."

(See Tab – E for Official Transcript)

After the interview was completed, Lieutenant Taylor provided Sergeant Sawicki with copies of Sergeant Whitener's first and second quarter evaluations from 2015. On the first quarter evaluation, Sergeant Whitener was deemed an overall meets standards, however he received six needs improvement ratings in the categories of: Initiative, Performance Standards, Decision Making, Resource Management, Direction and Leadership, and Resource Management in regards to supervisory ability. It should be noted, that the overall meets standards box was checked at the top of page two in this evaluation, however in the comment narrative section, the first line written by Lieutenant Taylor states, "*This is a quarterly evaluation covering the first quarter of 2015. Sergeant Whitener performs at an overall "needs improvement" and there seems to be no signs of improvement.*" This evaluation indicates that Sergeant Whitener has difficulty carrying out administrative responsibilities especially in regard to written correspondence. The evaluation also articulates the discipline Sergeant Whitener received during the rating period.

On the second quarter evaluation, Sergeant Whitener again was rated at overall meets standards, and he received four needs improvement ratings in the categories of: Performance Standards, Communication, Planning and Assigning, Direction and Leadership. The comment narrative of this evaluation indicates Sergeant Whitener had errors in his consolidated log and approved reports completed by his subordinates that lack proper details. The evaluation also indicates Sergeant Whitener struggles to upkeep his employees' timecards in the KRONOS program. Sergeant Whitener also had to make numerous corrections to his employees' evaluations as there were grammatical and content errors. The evaluation concludes by advising Sergeant Whitener that he [Sergeant Whitener] understands the remedial training he receives, however, he continues to "*...produce a substandard work product required of a sergeant.*"

Lieutenant Brian Henderson

On September 14, 2015, Sergeant Sawicki conducted a sworn recorded interview with Lieutenant Brian Henderson at the Sheriff's administrative offices in DeLand, FL. The following is a summary of that interview:

Lieutenant Henderson has been employed by the VCSO for thirteen years and has held the positions of deputy, investigator, sergeant, and lieutenant. Currently, Lieutenant Henderson is assigned to District Four as the Assistant Commander for investigations.

From December of 2014 to February of 2015, Lieutenant Henderson was the Assistant Commander of patrol at District Four, in which he was Sergeant Whitener's immediate supervisor. Lieutenant Henderson advised that Sergeant Whitener had supervisory issues with poor judgment, lack of knowledge and general proficiencies. The lieutenant elaborated on this by stating Sergeant Whitener's administrative documents, "*rarely were able to be transmitted past myself to administration because they contained an enormous amount of errors. Not only grammatically in spelling but content and in some cases contradictory information that required follow-up.*" Initially, Sergeant Whitener was provided with "peer to peer" counseling, however according to Lieutenant Henderson the counseling sessions, "*fell on deaf ears and time after*

time it was the same problem over and over to a point where in January I actually completed an employee performance notice which illustrated several incidents.”

Lieutenant Henderson advised he also documented these issues in Sergeant Whitener’s annual evaluation. Lieutenant Henderson stated he included in the evaluation ways for Sergeant Whitener to improve and better his supervisory abilities.

According to Lieutenant Henderson, Sergeant Whitener failed to improve on any of the deficient areas, hence why he received further discipline throughout 2015. Lieutenant Henderson stated that when Sergeant Whitener received his discipline, he seemed to understand and advised he would work to improve.

In Lieutenant Henderson’s opinion, he does not feel Sergeant Whitener is a competent supervisor as he has not witnessed any improvements in the areas addressed with the sergeant. Lieutenant Henderson was asked if he felt there was anything else the agency could do to assist Sergeant Whitener and his response was: *“No, at this point I think we’ve really we’ve gone through everything that I can think of I think in some respect there’s, I don’t know if it’s a lack of experience or exposure but I don’t know what more we can do to make this situation better for Sergeant Whitener.”*

(See Tab – F for Official Transcript)

Sergeant Charles Whitener

On September 25, 2015, Sergeant Sawicki and Investigator James Gabriel conducted a sworn recorded interview with Sergeant Charles Whitener at the Sheriff’s administrative offices in DeLand, FL. Also present during the interview was Teamster Representative Brodie Hughes. The following is a summary of that interview:

Sergeant Whitener has been employed with the VCSO for over eleven years, and he has held the positions of deputy and sergeant all of which was spent assigned to patrol. Sergeant Whitener has been a sergeant since 2012, and he has been assigned to District Four patrol since he was promoted.

It was confirmed by Sergeant Whitener that he received four formal disciplinary documents since January 19, 2015. He also confirmed that he reviewed, signed, and understood all the disciplinary documents. Sergeant Whitener was provided with guidance from both Lieutenant Taylor and Lieutenant Henderson each time he received discipline. When asked what he has done to improve since receiving the discipline Sergeant Whitener stated, *“Well I’ve taken a first line supervisor class. I’m enrolled in college and taken some advice from other sergeants I work with and pretty much ask anybody I can for advice if I [sic] got a question on something.”* Sergeant Whitener indicated he reports to Lieutenant Taylor every shift for *“mentoring sessions.”* During the *“mentoring sessions,”* Lieutenant Taylor would provide Sergeant Whitener with advice on how to improve his abilities and knowledge.

On July 31, 2015, Sergeant Whitener was provided with a personnel early warning memorandum completed by Captain Erik Eagan. Sergeant Whitener recalled reviewing and discussing the memorandum with Captain Eagan. Sergeant Whitener advised he understood the memorandum, and he understood the progressive discipline directive as he researched both the Early Warning System and Progressive Discipline directives.

Sergeant Whitener was questioned about the overtime shift he volunteered for on August 03, 2015, and initially failed to report to duty. Sergeant Whitener stated he agreed to take the overtime shift from a fellow sergeant via text message, and he neglected to input the date into his calendar and he forgot about the obligation. Sergeant Whitener stated this was a one-time mistake, as he has never failed to report for a scheduled shift during his eleven year career.

Investigators questioned Sergeant Whitener regarding the arrest incident on August 06, 2015, involving Deputy Lococo and a credit card fraud case. Sergeant Whitener stated RMS indicates he reviewed the report for thirteen seconds prior to approval, because he had already reviewed the report in PDF format via an e-mail that Deputy Lococo had sent. The sergeant was queried as to when he became aware of the improper charge that Deputy Lococo utilized. Sergeant Whitener recalled that he was driving home at the completion of his shift when he received a telephone call (he was unable to remember who the call was from) from a co-worker who advised him of the error. Sergeant Whitener then described the following events that were taken to remedy the situation:

“What I did was I looked up the statute. I can’t remember where I pulled over but looked up the statute. It was like ok that’s a misdemeanor. I called Sgt. Gowan and said hey Sean this is what happened. I approved it. I didn’t realize it was a misdemeanor. I didn’t even know there was misdemeanor for a fraud credit card but it’s a misdemeanor can you take a look at it and see if there’s something we can do about it. He goes yeah as a matter of fact Lococo just walked in my office. I’ll take care of it. All right. Thanks.”

Prior to approving the report, Sergeant Whitener stated he was unaware that the charge used by Deputy Lococo was a misdemeanor that was not classified as a misdemeanor exception. Sergeant Whitener indicated he was under the assumption that the charge was a felony when he was approving the report. When asked if he could recall if Deputy Lococo checked the misdemeanor or felony box on the SA-707, the sergeant stated *“I don’t recall that.”*

Sergeant Whitener confirmed that he has taken three supervisory classes the following is a list of those classes:

- November 08, 2011, Effective Supervision – sixteen hour course.
- June 14, 2013, Advanced Report Writing and Review – forty hour course.
- May 15, 2015, Line Supervision – eighty hour course.

Sergeant Whitener stated he was able to learn the most in the Line Supervision class by stating *“It brought to light a lot of things that I didn’t realize that we should be doing as supervisors.”*

Like they hinted a lot about being personal with your guys and knowing a lot of personal information about them.” The class also taught Sergeant Whitener the importance of documentation.

According to Sergeant Whitener, he stated that he is improving and his lieutenant and captain have mentioned that he is improving in his day to day functions. Sergeant Whitener stated he does believe he is a competent supervisor. When asked if he felt the agency could do anything more to assist him, he stated that he wished the agency would approve him for more schools. When asked what schools he was denied to attend, the sergeant stated he was initially denied to attend Line Supervision several years ago. When asked why he was denied, Sergeant Whitener stated because it was out of county and other District Four supervisors had already applied for and were approved for the class. Sergeant Whitener admitted that he never tried to apply for the class after that time until May of 2015, when he ultimately was approved. Sergeant Whitener also was unable to point out any other instance where he was denied approval to attend a supervisory class.

Sergeant Whitener stated prior to receiving Lieutenant Henderson and Lieutenant Taylor as supervisors, he had always received exceeds standard evaluations. Sergeant Whitener advised he has improved from his first quarterly evaluation to his second quarterly evaluation of 2015. Sergeant Whitener stated that he feels as though his superiors are treating him unfairly. When asked why he felt that he was being singled out, Sergeant Whitener stated, *“It’s to the point now where I feel that there’s nothing I do that’s gonna make somebody happy and be happy with my product.”* When asked what may have caused this breakdown, Sergeant Whitener stated, *“You’re guess is as good as mine. I can’t even venture a guess on that.”*

When asked if there was anything else he [Sergeant Whitener] could personally do to make himself better he stated the following:

“Just continue to educate yourself every day. You know that’s why I’m enrolled in school. You can only get better. I mean you can only. I do what I can know I mean a long time ago somebody told me regardless of what rank you are or what skill level you are always have somebody read your stuff and I’m doing that. I make a habit to do that. I’ve had sergeants read my material. I’ve had lieutenants read my material and they say it’s fine and then I turn it in and it comes back not fine and I’m at a loss ‘cause I’ve had people above me read them and they say it’s good and then it comes back not good so you just gotta maintain and keep educating yourself and eventually everything will get better.”

Sergeant Whitener was questioned if he felt he violated the below listed policies regarding this investigation. The following are his responses to the alleged violations:

26.2.5 Neglect of Duty	No
26.2.17 Failure or Refusal to Work Overtime or Special Hours	No
26.2.33 Inattention to Duties, Loafing, Sleeping	No
26.2.34 Failure to Follow Directive or Order	No
26.2.133 General Proficiency	No
26.2.136 Knowledge of Official Directives	Yes
26.2.137 Knowledge of Official Directives	Yes

(See Tab – G for Official Transcript)

CONCLUSION:

On October 13, 2015, 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:

26.2.5 Neglect of Duty	Sustained
26.2.17 Failure or Refusal to Work Overtime or Special Hours	Sustained
26.2.33 Inattention to Duties, Loafing, Sleeping	Sustained
26.2.34 Failure to Follow Directive or Order	Sustained
26.2.133 General Proficiency	Sustained
26.2.136 Knowledge of Official Directives	Sustained
26.2.137 Knowledge of Official Directives	Sustained

On November 05, 2015, Sergeant Whitener met with Sheriff Johnson in the Sheriff's Administrative Office. Both Sergeant Whitener and Sheriff Johnson mutually agreed to toll this investigation for six months. During those six months Sergeant Whitener would be transferred from District Four Patrol to District Six Patrol. Furthermore Lieutenant Michelle Newman was ordered to complete monthly evaluations on the performance of Sergeant Whitener.

On May 13, 2016, Lieutenant Newman provided Sergeant Sawicki with monthly evaluations (November of 2015 to May of 2016) and two quarterly evaluations that she completed in regards

to Sergeant Whitener's performance as a supervisor. The following is the overall ratings for the aforementioned months as evaluated by Lieutenant Newman:

- November 11, 2015 to December 07, 2015 – **Meets Standards**
- December 07, 2015 to January 07, 2016 - **Meets Standards**
- Fourth Quarter of 2015 – **Meets Standards**
- January 07, 2016 to February 07, 2016 – **Meets Standards**
- February 07, 2016 to March 07, 2016 - **Meets Standards**
- March 07, 2016 to April 07, 2016 – **Meets Standards**
- First Quarter of 2016 - **Meets Standards**
- April 07, 2016 to May 07, 2016 - **Meets Standards**

(See Tab – J for Evaluations from November of 2015 to April of 2016)

Sergeant Sawicki met with Sheriff Johnson and provided him with copies of the evaluations. After review, the Sheriff determined the violations of the below listed Department Standards Directives to be:

26.2.5 Neglect of Duty	Not Sustained
26.2.17 Failure or Refusal to Work Overtime or Special Hours	Not Sustained
26.2.33 Inattention to Duties, Loafing, Sleeping	Not Sustained
26.2.34 Failure to Follow Directive or Order	Not Sustained
26.2.133 General Proficiency	Not Sustained
26.2.136 Knowledge of Official Directives	Not Sustained
26.2.137 Knowledge of Official Directives	Not Sustained

EXHIBITS:

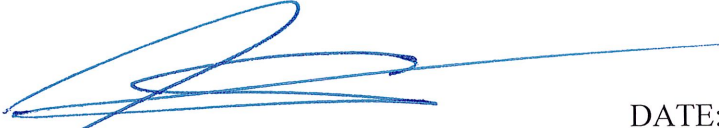
- A. Report of Investigation
- B. Official Correspondence
- C. Complaint/Supervisor's Inquiry
- D. Administration of Oath/Perjury Warning
- E. Official Transcript of Lieutenant Don Taylor
- F. Official Transcript of Lieutenant Brian Henderson
- G. Official Transcript of Sergeant Charles Whitener
- H. Prior Discipline and Evaluations
- I. Miscellaneous Documents
- J. Evaluations from November of 2015 to April of 2016
- K. Digital Media

WITNESSES:

Lieutenant Don Taylor
Volusia County Sheriff's Office
123 West Indiana Avenue
DeLand, FL
386-423-3301

Lieutenant Brian Henderson
Volusia County Sheriff's Office
123 West Indiana Avenue
DeLand, FL
386-423-3301

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: 07/27/14

**Sergeant Justin G. Sawicki
Internal Affairs Investigator**

APPROVED BY:  DATE: 7/27/14

**Chief Deputy Eric J. Dietrich
SHERIFF BEN F. JOHNSON
VOLUSIA COUNTY FLORIDA**