

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

REPORT OF INVESTIGATION

REPORT NUMBER: IA-16-003

PERIOD COVERED: November 21, 2015 - March 9, 2016

DATE REPORTED: March 10, 2016

SUBJECT(S) NAME: Deputy Austin Warensford #7958

INVESTIGATING OFFICERS: Investigator Glen Bennett #1452

BASIS FOR INVESTIGATION:

On March 9, 2016, Phyllis Barnes Gould allegedly entered the Deland Courthouse through front door security which was manned by uniformed Sheriff's Office deputies. The following day Ms. Gould posted a message on the Volusia County Sheriff's Office official Facebook page inquiring about the Sheriff's Office tobacco policy and expressing her concerns about seeing a deputy using what she believed was smokeless tobacco.

A review of the front door security video at the Deland Courthouse captured a uniformed deputy, later identified as Deputy Austin Warensford, utilizing a bottle to allegedly "spit" into. Using a bottle in such a manner is consistent with the use of smokeless tobacco, which Deputy Warensford is prohibited from using.

Outlined in the Teamsters Local #385 labor agreement with the County of Volusia, Article XXXV Tobacco Use Policy states that an employee hired after October 1, 2007 is not permitted to use tobacco products on or off duty. Since Deputy Warensford was hired on November 28, 2011, he may have violated said labor agreement.

OFFENSES:

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

26.2.141 Use of Tobacco/nicotine - Employees hired on or after October 1, 2007 shall be non-tobacco users at the time of hire as a condition of employment and as such shall refrain from use of tobacco products of any kind, on or off duty. *(New 07/08) (Violation subject up to dismissal)*

INVESTIGATIVE SUMMARY:

On March 17, 2016, Chief Deputy Eric J. Dietrich assigned the above incident to the Internal Affairs Unit. This report details the internal affairs investigation conducted by Investigator Glen Bennett.

On March 18, 2016, Investigator Bennett served Deputy Austin Warensford with a notice of internal investigation and officer bill of rights at the Deland Courthouse. *(See Tab – B for Official Correspondence)*

Investigator Bennett reviewed Ms. Gould's Facebook post on the official Sheriff's Office Facebook page. Ms. Gould sent the post on March 10, 2016 at 11:04AM, the day after she said she entered the courthouse. Ms. Gould wrote:

“Question for VCSO, what is your policy on tobacco use during working hours? I was entering the Deland court house yesterday and one of the sheriff's was spitting chewing tobacco juice into a water bottle as they were checking people in. I thought it was very unprofessional and disgusting to say the least. Just letting you know about the message it could send to young folks as well. Thanks.”

That same day at 4:31PM, Public Information Officer Gary Davidson replied to Ms. Gould's Facebook post requesting she contact Sergeant Michael Campanella, a supervisor at the Deland Courthouse, so the Sheriff's Office could investigate the matter. Ms. Gould did not reply to the request and her Facebook page contained no other form of communication. *(See Tab – H for Facebook post)*

Sergeant Campanella completed a supervisor's inquiry (071M00025.16) into the alleged use of tobacco products by a uniformed deputy within the courthouse. According to the inquiry, Sergeant Campanella reviewed the schedule for the date in question, which indicated there were three deputies assigned to front door security, Deputies John Jones, Steve Wells and Austin Warensford. Not knowing when Ms. Gould entered the courthouse, Sergeant Campanella reviewed security video of the front door. *(See Tab – B for Supervisors Inquiry)*

At approximately 8:00AM, security video captured Deputy Warensford reaching for what appears to be a clear bottle on the counter behind where he was standing. Deputy Warensford is seen picking up the bottle, placing it to his mouth and then back onto the counter. This action is consistent with the use of smokeless tobacco; however, it is inconclusive, based on the security video, whether Deputy Warensford was in fact *“spitting chewing tobacco juice”* into the bottle. Furthermore, the security video did not capture Deputy Warensford placing the smokeless tobacco into his mouth nor did it show the receptacle from which it may have been stored in. *(See Tab – I for Security Video)*

In the security video, Deputy Warensford placed the bottle to his mouth on two occasions; at 8:03AM and 8:05AM. Each time this was done, there was a female citizen either standing in front of, or off to the side being scanned by Deputy Tammy Thoman.

Investigator Bennett directed Public Information Officer Andrew Gant on March 18, 2016 at 8:56AM, to post another request on Facebook asking Ms. Gould to contact him for further investigation. Ms. Gould never responded to the request. *(See Tab – H for Facebook Post)*

Investigator Bennett reviewed Deputy Warensford personnel file confirming his hiring date of November 28, 2011. Also contained in the personnel file was a document titled; **Volusia County Sheriff's Office Special Risk Employee Tobacco Usage Policy**, which explained being nicotine free was not only a condition of being hired but of continued employment. This document, dated July 26, 2011, was included in Deputy Warensford signed Sheriff's Office supplemental application which he submitted for employment. *(See Tab – H for Volusia County Sheriff's Office Special Risk Employee Tobacco Usage Policy)*

Investigator Bennett reviewed **Article XXXV Tobacco Use Policy** as outlined in the current labor agreement between Teamsters Local #385 and the County of Volusia. The labor agreement states:

County Package Proposal
February 2015

1. Employees Hired Before October 1, 2007 – Such employees are subject to existing Departmental policy restricting tobacco use while on duty and while operating a Departmental vehicle (on or off duty).
2. Employees Hired After October 1, 2007 – Such employees are not permitted to use tobacco products at any time (on or off duty) and must comply with such prohibitions as a condition of hire and continued employment.
3. Violations of paragraph 1 or 2 above will result in a one shift suspension for a first offense, a three shift suspension for a second offense, and termination for a third offense.
(See Tab – H for Article XXXV Tobacco Use Policy)

Deputy Steven Wells

On March 29, 2016, Investigator Bennett and Sergeant Justin Sawicki conducted a sworn recorded interview with Deputy Steven Wells at the Deland Courthouse in Deland, FL. The following is a summary of that interview:

Deputy Wells has been with the Sheriff's Office for sixteen years and is currently assigned to the Deland Courthouse as a bailiff.

Deputy Wells was on duty working courthouse entrance security on Wednesday, March 9, 2016 when Ms. Gould allegedly entered the courthouse. Deputy Wells viewed three still photographs captured from the security video of the entrance to the courthouse at approximately 8:03AM that morning. The deputy identified three of the four uniformed deputies in the photographs as Deputies John Jones, Austin Warensford and himself.

Deputy Wells could not remember Deputy Warensford using smokeless tobacco that day nor did he recall seeing him with any type of smokeless tobacco receptacle. Deputy Wells stated that he has seen Deputy Warensford using what may have been smokeless tobacco prior to March 9, 2016; however, he was unable to identify the brand or if it was a non-tobacco product. *(See Tab – D for Official Transcript)*

Deputy John Jones

On March 29, 2016, Investigator Bennett and Sergeant Sawicki conducted a sworn recorded interview with Deputy John Jones at the Deland Courthouse in Deland, FL. The following is a summary of that interview:

Deputy Jones has been in law enforcement for thirty five years and is currently assigned to the Deland Courthouse. On March 9, 2016, Deputy Jones was assigned to entrance security at the Deland Courthouse along with Deputies Warensford and Wells.

Deputy Jones identified Deputy Warensford in the still photographs taken of the security video. When presented with the photograph of Deputy Warensford placing a bottle to his mouth and asked if he may have been using smokeless tobacco that day, *“He was using something. He was chewing something and then spitting into a, like soda bottle or water bottle or something like that...I didn’t see him dip anything out of dip can but that’s what it looked like to me.”* Deputy Jones further stated, *“I don’t believe it was sunflower seeds. It didn’t look like that. It looked like what you’d spit in a cup after you chew tobacco.”*

Deputy Jones has seen Deputy Warensford, *“...put stuff in his mouth and then spits in a cup...”* but this was in the past, not on Wednesday, March 9, 2016. Deputy Jones also claimed to have seen, in Deputy Warensford possession, what appeared to be a smokeless tobacco receptacle in the past, but he was unable to say for certain, *“I’ve seen a tin (receptacle) before but I don’t pay attention.”* The receptacle was described as being similar to that of a Skoal or Copenhagen tin. *(See Tab – E for Official Transcript)*

Deputy Tammy Thoman

On March 31, 2016, Investigator Bennett and Sergeant Sawicki conducted a sworn recorded interview with Deputy Tammy Thoman at the Deland Courthouse in Deland, FL. The following is a summary of that interview:

Deputy Thoman has been in law enforcement for over twenty one years and has spent the last twelve with the Sheriff’s Office. Deputy Thoman is currently assigned to the Deland Courthouse as uniformed security and was working entrance security on the day in question.

Deputy Thoman couldn’t remember any specifics of that day since she has assisted with front door security on numerous occasions. Deputy Thoman was unable to confirm whether Deputy Warensford had used smokeless tobacco, saying, *“I can’t say as I would recall that. Not from*

March 9th.” She could recall Deputy Warensford chewing sunflower seeds and using smokeless tobacco in the past, but she could not say for certain as to what type of tobacco he used. *(See Tab – F for Official Transcript)*

On April 7, 2016, Investigator Bennett served Deputy Warensford an amended notice of internal investigation at the Sheriff’s administrative offices in Deland. *(See Tab – B for Official Correspondence)*

Deputy Austin Warensford

On April 7, 2016, Investigator Bennett and Sergeant Sawicki conducted a sworn recorded interview with Deputy Warensford at the Sheriff’s administrative offices in Deland, FL. Also present for the interview were Teamsters Representative’s Brodie Hughes and Kyle Bainbridge. The following is a summary of that interview:

Deputy Warensford has been with the Sheriff’s Office since November 11, 2011 and is currently assigned to the Deland Courthouse as uniformed security.

Deputy Warensford was assigned to entrance security on the morning of Wednesday, March 9, 2016, and was identified on security video amongst three other deputies. In a still photograph taken from the security video, Deputy Warensford is seen placing a bottle to his mouth. According to Deputy Warensford, the bottle contained, “...most likely a mixture of sunflower seeds and tobacco spit.” Deputy Warensford identified the smokeless tobacco he used as the brand, Grizzly.

Deputy Warensford acknowledged his hiring date was after October 1, 2007, and that he was not permitted to use tobacco products. The document titled, Volusia County Sheriff’s Office Special Risk Employee Tobacco Usage Policy, was only dated by Deputy Warensford; however, he did admit its existence within his employment application and that the tobacco policy was part of the labor contract between the Teamsters and County of Volusia.

Since being advised of the internal investigation, Deputy Warensford has taken measures to quit his use of tobacco products. *(See Tab – G for Official Transcript)*

When asked if he felt he violated the following policy, Deputy Warensford stated:

26.2.141	Use of Tobacco/nicotine	YES
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CONCLUSION:

On April 26, 2016, this investigation was presented to the Sheriff and his administrative staff. After review, the Sheriff determined the violation of the below listed Department Standards Directive to be:

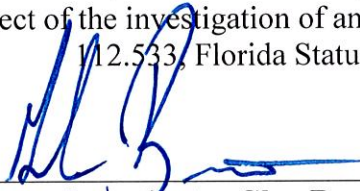
On May 5, 2016, Investigator Bennett served Deputy Warensford with an Intent to Suspend letter at the Deland Courthouse. (See Tab – B for Official Correspondence)

On May 11, 2016, Investigator Bennett served Deputy Warensford with a Final Suspension letter at the Sheriff’s administrative offices in Deland, FL. (See Tab – B for Official Correspondence)

EXHIBITS:

- A. Report of Investigation
- B. Official Correspondence/Supervisors Inquiry
- C. Advisement of Administrative Oath/Perjury Warning/Garrity Warning
- D. Official Transcript of Deputy Steven Wells
- E. Official Transcript of Deputy John Jones
- F. Official Transcript of Deputy Tammy Thoman
- G. Official Transcript of Deputy Austin Warensford
- H. Miscellaneous Documents
- I. Digital Media

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: 5/11/16

**Investigator Glen Bennett
Internal Affairs Investigator**

APPROVED BY:  DATE: 5/13/16

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