

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

**REPORT OF INVESTIGATION**

**REPORT NUMBER: IA-16-008**

**PERIOD COVERED:** April 07, July 14 and July 15, 2016

**DATE REPORTED:** July 29, 2016

**SUBJECT(S) NAME:** Deputy John Braman #7392

**INVESTIGATING OFFICERS:** Sergeant Justin G. Sawicki #7179

**BASIS FOR INVESTIGATION:**

On July 29, 2016, Sergeant Justin Sawicki received a supervisor inquiry memorandum composed by Sergeant Keith Peck. The subject of the memorandum was Deputy John Braman and his repeated failure to respond to a subpoena. The latest alleged violation occurred on April 07, 2016, in which Deputy Braman failed to report to a Department of Highway Safety and Motor Vehicle (DHSMV) driver's license hearing. This failure to report to a court function was one of numerous documented occurrences since May of 2015.

Chief Deputy Eric J. Dietrich assigned the case for investigation by the Internal Affairs Unit. The supervisor inquiry completed by Sergeant Peck is referenced by memorandum number: 053M016.16 and is attached and made part of this investigation. *(See Tab – C)*

**OFFENSES:**

This investigation is relevant to an alleged violation of Department Standards Directive and Volusia County Merit System Rules:

**Volusia County Merit System Rules and Regulations 86-453** *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.*

**RE:** (5). Violation of any reasonable or official order, refusal to carry out lawful and reasonable directions given by a proper supervisor, or other acts of insubordination.

(10) Incompetent or unsatisfactory performance of duties.

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

**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.)*

**Re: 26.2.15 Failure to Respond to a Subpoena** - Employees shall promptly report to the specified location at the time and date as required by civil or criminal subpoena without fail. Employees who are unable to respond to a subpoena because of sickness, injury, or other such causes, or because of conflict with another subpoena shall notify the Witness Coordinator.

#### **INVESTIGATIVE SUMMARY:**

On July 29, 2016, Chief Deputy Eric J. Dietrich assigned the above incident to the Internal Affairs Unit. This report details the internal affairs investigation conducted by Sergeant Justin Sawicki.

On August 10, 2016, Sergeant Justin Sawicki served Deputy John Braman with a Notice of Internal Investigation in Ormond Beach, Florida. Deputy Braman was provided a copy of the Law Enforcement Officer Bill of Rights. *(See Tab – B for Official Correspondence)*

Sergeant Sawicki reviewed the supervisor inquiry memorandum completed by Sergeant Keith Peck. The following is a summary of the memorandum:

Sergeant Peck was tasked with completing the memorandum on July 22, 2016, regarding Deputy Braman's repeated failure to attend court functions. On July 08, 2016, the VCSO was notified by the DHSMV that Deputy Braman had failed to attend a driver's license hearing regarding a DUI case. As a result of Deputy Braman's lack of attendance at the hearing, the defendant's suspension was invalidated and the defendant's driver's license was ultimately re-instated.

On July 08, 2016, Sergeant Peck sent an e-mail to Deputy Braman querying him as to why he did not attend the hearing on April 07, 2016. Deputy Braman responded to the sergeant's e-mail by writing, "I don't remember a subpoena for the 4/7 case." Sergeant Peck retrieved the subpoena records from the VCSO District Three subpoena service log. Sergeant Peck determined Deputy Braman signed for the subpoena in question on April 01, 2016. Sergeant Peck and Lieutenant Pagliari contacted Mary Varnadore with the Bureau of Administrative Review Office, and she confirmed that due to Deputy Braman's absence on April 07, 2016, the defendant in the court case had his driver's license re-instated.

Sergeant Peck reviewed Deputy Braman's discipline file and observed that he [Deputy Braman] had been issued four prior disciplinary documents for failure to respond to a subpoena. Sergeant Peck concluded the memorandum by recommending a one-day suspension for Deputy Braman, due to the repeated violations. *(See Tab – C for supervisor inquiry memorandum)*

Sergeant Sawicki reviewed the attached District Three subpoena log and confirmed the information in the memorandum composed by Sergeant Peck was correct.

Sergeant Sawicki obtained Deputy Braman's disciplinary file and the following is a summary of the related directive violations since May 19, 2015:

- May 19, 2015, Written Counseling for missing two court hearings.
- October 26, 2015, Written Counseling for missing several court hearings SD-15-179.
- December 09, 2015, Verbal Reprimand for missing four court hearings SD-15-217.
- February 10, 2016, Letter of Reprimand for missing two court hearings SD-16-013.

Upon further review of the aforementioned disciplinary documents, Sergeant Sawicki noted each document advised Deputy Braman that continued violations of the same nature will result in progressive discipline.

## **Deputy John Braman**

On August 19, 2016, Sergeant Sawicki and Investigator Glen Bennett conducted a sworn recorded interview with Deputy John Braman at the Sheriff's administrative offices in DeLand, FL. Also present during the interview was Teamster Representative Kyle Bainbridge. The following is a summary of that interview:

Deputy Braman has been employed with the VCSO full-time since March of 2009. He is currently assigned to patrol in District Three. Deputy Braman has been assigned to District Three since February of 2016.

Sergeant Sawicki provided Deputy Braman with a copy of the District Three subpoena log. Deputy Braman was asked if he received a subpoena on April 01, 2016, for a driver's license hearing that was scheduled for April 07, 2016. Deputy Braman acknowledged that he had received and signed for the aforementioned subpoena. Deputy Braman confirmed he failed to report to the hearing on April 07, 2016. When asked why he did not report to the driver's license hearing, Deputy Braman stated, *"I just; I didn't go. I didn't, I didn't properly mark the subpoena in my calendar so the day of the subpoena I didn't even know that I didn't go until later on..."* Deputy Braman stated that he did not contact the witness coordinator or the Bureau of Administrative Review in order to inform them of his absence.

Deputy Braman was provided copies of the four prior disciplinary documents he received for failure to respond to a subpoena. Deputy Braman acknowledged all four of the prior disciplinary documents were issued to him within the last two years. Deputy Braman also confirmed he signed all of the documents and was aware each contained information regarding the VCSO's directive of progressive discipline. Deputy Braman was asked if he was aware of and understood the progressive discipline directive to which he responded, *"Yes."*

Deputy Braman was asked if there is a specific reason or something unknown to the agency causing him to repeatedly not attend court functions and he stated, *"No. I just lost organization and just didn't document them and put them on my calendar... I don't have an excuse for it"*



Upon review of the e-mail correspondence between Deputy Braman and the traffic court clerk, it was determined that Deputy Braman sent one e-mail on July 14 and one on July 15, 2016, notifying the court of his absence.

The first e-mail was sent on July 14, 2016, and had a timestamp at 1:08 PM, which was eight minutes after Deputy Braman was to report to court. In this e-mail, Deputy Braman wrote, "*Due to an unforeseen child care issue, I am unable to attend court today. Please have all of my cases today dismissed.*"

The second e-mail was sent on July 15, 2016, with a timestamp at 2:15 PM, fifteen minutes after Deputy Braman was to report to court. In this e-mail, Deputy Braman wrote, "*I think I had court today and I was unable to make it, due to an unforeseen child care issue. Please excuse my absence.*" At 2:27 PM the clerk replied to Deputy Braman's e-mail by stating, "*Got it*".

On September 19, 2016, Sergeant Justin Sawicki served Deputy John Braman with an Amended Notice of Internal Investigation in Ormond Beach, Florida. Deputy Braman was provided a copy of the Law Enforcement Officer Bill of Rights. (*See Tab – B for Official Correspondence*)

### **Deputy John Braman (Second Interview)**

On September 22, 2016, Sergeant Sawicki and Investigator Glen Bennett conducted a sworn recorded interview with Deputy John Braman at the Sheriff's administrative offices in DeLand, FL. Also present during the interview was Teamster Representative Kyle Bainbridge. The following is a summary of that interview:

Deputy Braman was provided with the District Three Subpoena log and copies of the four citations for July 14 and July 15, 2016. Deputy Braman confirmed he received three subpoenas ordering him to court for July 14, 2016 and one subpoena for July 15, 2016. It was also confirmed the reporting time for all four subpoenas was 1:00 PM on their respective dates.

Investigators asked Deputy Braman if he attended the traffic court hearing in question, and he

stated, “No.” Deputy Braman stated he sent the traffic court clerk two e-mails to advise court officials of his absence. Deputy Braman was asked if there was a reason he sent both e-mails to the traffic court clerk after the scheduled reporting time and he stated, “No. I, I, I guess I didn’t realize it was after the time that I was supposed to be there.” According to Deputy Braman, he was unable to attend both traffic court dates because his wife had recently started a new full-time job. He further advised that due to his wife’s schedule, there was a childcare conflict and he was unable to acquire proper childcare. Deputy Braman stated his wife reminded him the morning of the fourteenth that there would be a childcare dilemma. Deputy Braman stated he could not recall if he remembered he had traffic court on consecutive days, nor did he recall if he knew he would be in custody of his step-son on the fourteenth and fifteenth. Deputy Braman did acknowledge that he was aware of the traffic court hearing on the fourteenth, and he could not explain why he sent the e-mail to the traffic court clerk eight minutes after his scheduled reporting time.

When asked specifically about the e-mail on the fifteenth, and why he sent it one hour and fifteen minutes after his scheduled reporting time, Deputy Braman stated the following:

*“I want to say that the 15<sup>th</sup> I imagine I didn’t realize I had court until it was a little bit too late. And in the past I’ve contacted that particular Clerk over in the Daytona Beach office afterwards and she’s taken care of the status as far as present or not present or whatever so I just fired the email off to let her know that I wasn’t able to go to court.”*

Investigators provided Deputy Braman with the traffic court docket for the month of July 2016. He acknowledged on the fourteenth his court cases were marked as excused and on the fifteenth, he was marked as not present.

Deputy Braman was asked if he was able to foresee any other childcare issues in relation to attending court. Deputy Braman stated the following:

*“It’s, he’s special needs so it’s hard, so childcare is hard to get consistent. Right now it’s consistent with her job and my schedule and the way things are but like I said I mean it’s, I can’t sit here and promise you that it’s always gonna be*

*perfect. I don't know. You know I don't know if it's, for right now things are good. You know childcare is taken care of. He basically has a school counselor that works at his high school that like works with special needs kids that actually brings him home and watches him until she gets home so."*

Deputy Braman was questioned if he felt he violated the below listed directive regarding this investigation. The following are his responses to the alleged violations:

<b>Volusia County Merit System Rules and Regulations 86-453 (5)</b>	<b>No</b>
<b>Volusia County Merit System Rules and Regulations 86-453 (10)</b>	<b>Yes</b>
<b>Volusia County Merit System Rules and Regulations 86-453 (13)</b>	<b>No</b>
<b>26.2.15 Failure to Respond to a Subpoena</b>	<b>Yes</b>

Prior to the conclusion of the interview, Deputy Braman asked if he could make a statement and investigators obliged. The following is the statement made by Deputy Braman:

*"I understand that it's a lump sum thing. It's, it's now because of the amendment its all of the court dates involved in one violation but I just want to add in there that I agree to the first one that yes I missed it. I didn't go. It wasn't that I didn't intentionally didn't go I just didn't go. I didn't remember about it. On the second two, our policy 26.2.15 Failure to respond to a subpoena. Employees shall promptly report to the specified location at the time and date as required by civil or criminal subpoena without fail. Employees are unable to respond to a subpoena because of sickness, injury or other such causes or because of conflict with another subpoena shall notify the witness coordinator. It doesn't say when or in what time frame. It just says shall notify them so I mean I, I, I know it probably won't matter because it's a lump sum thing but I just want to put out there that July 14<sup>th</sup> and July 15<sup>th</sup> no matter when I sent the emails those should have never been included in this. Those should have been, the chain of command should have got rid of those, in my opinion, because they're irrelevant because I*



*did contact the witness coordinator or the Clerk's office in that case to dismiss those cases so like I said for what it's worth. You know I understand it's a lump sum thing I just want to put that out on the record for the file."*

**CONCLUSION:**

On October 18, 2016, 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:

<b>Volusia County Merit System Rules and Regulations 86-453 (5)</b>	<b>Sustained</b>
<b>Volusia County Merit System Rules and Regulations 86-453 (10)</b>	<b>Sustained</b>
<b>Volusia County Merit System Rules and Regulations 86-453 (13)</b>	<b>Sustained</b>
<b>26.2.15 Failure to Respond to a Subpoena</b>	<b>Sustained</b>

On October 27, 2016, Sergeant Sawicki served Deputy Braman with an Intent to Suspend letter Orange City, FL.

On October 31, 2016, Deputy Braman met with the Sheriff and accepted responsibility for his actions. The Sheriff's final decision was to suspend Deputy Braman without pay for twelve work hours.

On November 08, 2016, Sergeant Sawicki served Deputy Braman with a Final Suspension letter in DeLand, FL.

**EXHIBITS:**

- A. Report of Investigation
- B. Official Correspondence
- C. Supervisor Inquiry Memorandum
- D. Administration of Oath/Perjury Warning
- E. Transcript of Deputy John Braman
- F. Miscellaneous Documents
- G. 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: 11/14/16

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

APPROVED BY: \_\_\_\_\_

DATE: 11/15/16

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