

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

REPORT OF INVESTIGATION

REPORT NUMBER: IA 18-007

PERIOD COVERED: June 9 - 11, 2018
DATE REPORTED: June 10, 2018
SUBJECT(S) NAME: Sergeant Charles Whitener #6844
INVESTIGATING OFFICERS: Detective Glen Bennett #1452

BASIS FOR INVESTIGATION:

On June 22, 2018, Lieutenant Michelle Newman submitted Supervisor Inquiry SI 18-005 to Sheriff's Office command staff, which documented several points of concern involving Sergeant Charles Whitener's supervisory actions and decisions.

It was alleged that Sergeant Whitener failed to follow Sheriff's Office procedure in making the proper notifications involving law enforcement action being taken on a juvenile. Had these notifications been made, Sergeant Whitener would have been advised of the juveniles extensive criminal history, which may have led to the juvenile being taken into custody.

Additionally, Sergeant Whitener allegedly struck an animal with his patrol car on June 11, 2018, at approximately 5:55AM in New Smyrna Beach, resulting in front-end damage. Sheriff's Office command staff was never advised of the crash or damage sustained at the time of crash.

It wasn't until June 13, 2018, after another deputy observed the damage, that Sergeant Whitener notified command staff of the crash. Furthermore, given the location, date and time Sergeant Whitener claimed the crash occurred; he would have been several miles outside his assigned area of responsibility.

Sergeant Whitener also allegedly failed to address specific issues related to an incident report submitted by a deputy under his command. As a result, another sergeant had to address the issue.

Another incident, according to the inquiry, alleged Sergeant Whitener failed to take prompt action related to a broken windshield on a deputy's patrol car. Since he did not remedy the problem in a timely manner, it caused the deputy to operate a vehicle with a compromised windshield and created an additional task for the oncoming patrol shift sergeant.

Another incident occurred on July 7, 2018 when Sergeant Whitener allegedly failed to properly notify command staff of a significant event involving a baby being left in a vehicle unattended.

OFFENSES:

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

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:**
- (1) Willful neglect in the performance of the duties of the position to which the employee is assigned.
 - (2) Disregard for or frequent violations of county ordinances, departmental policies and regulations, including safety rules.
 - (5) Violation of 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 performances of duties.
 - (13) Any conduct, on or off duty that reflects unfavorably on the county as an employer.
 - (21) Any other conduct or action of such seriousness that disciplinary action is considered warranted.

26.2.23 Failure to Report Vehicle Accident - Employees shall immediately report accidents in which they are involved with a Department or County vehicle or equipment. Vehicle includes any form of sea, land or air transport. *(Violation subject up to a 5 days 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.)*

26.2.35 Submission of Reports and Documents - Employees shall originate, complete, and submit all reports and documents required in the execution of their duties prior to concluding a tour of duty except as authorized by a supervisor. *(Violation subject up to a 1 day suspension.)*

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.)*

26.2.123 Prompt Compliance With Lawful Order - Employees shall promptly execute the lawful orders and/or instructions of a supervisor or superior officer of the Department and shall not delay or fail to carry out such orders or instructions. *(Violation subject up to a 5-day suspension.)*

26.2.124 Compliance With Direct Order of a Superior or Competent Authority - Employees shall comply with the direct orders or instructions given by a supervisor or superior officer and shall not refuse to comply when such orders or instructions are lawful and proper. *(Violation subject up to dismissal.)*

26.2.132 Job Knowledge and Performance, General Proficiency - 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.)*

26.2.133 Job Knowledge and Performance, 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.)*

26.2.134 Knowledge of Official Directives - Department personnel are required to possess a sound working knowledge of policies and procedures established by the Standards Directives *(Violation subject up to a 5- day suspension.)*

INVESTIGATIVE SUMMARY:

On June 25, 2018, Chief Deputy John Creamer assigned the above incident to the Internal Affairs Unit.

On June 27, 2018, Sergeant Charles Whitener was served with a Notice of Internal Affairs Investigation and a copy of the Officer Bill of Rights. This report details the internal affairs investigation conducted by Detective Glen Bennett. *(See Tab – B for Official Correspondence)*

Detective Bennett reviewed the supervisor's inquiry (inquiry) authored by Lieutenant Newman as well as Sheriff's Office reports to include the Body Worn Camera (BWC) footage. *(See Tab – D Supervisors Inquiry)*

Sergeant Whitener was the front line supervisor assigned to Bravo patrol shift in District – 6 Debarry on June 9, 2018. At approximately 10:22PM, a member of his patrol shift responded to an incident involving several juveniles at 308 Riviera Drive in Debarry, who were engaging in criminal activity (VCSO 18-13630). *(See Tab – N for Sheriff's Office Reports)*

Later during the shift, on June 10, 2018 at 1:20AM, deputies responded to 307 Riviera Drive for another incident involving some of the same juveniles involved in the earlier call for service. Documented in the incident report (18-13637), deputies conducted an investigation and developed sufficient probable cause to arrest a juvenile male. However, according to Sheriff's Office reports, a decision was made to file a charging affidavit with the State Attorney's Office, rather than taking the juvenile into custody. Furthermore, nowhere in the incident report did it mention Sheriff's Office personnel contacting, or attempted to contact, the Department of Juvenile Justice (D.J.J.) or the Sheriff's Office Director of Juvenile Services. *(See Tab – N for Sheriff's Office Reports)*

According to the Sheriff's Office Policy Directives 44.2.29 (B), governing juvenile arrests for misdemeanor violations: **If possible, check with D.J.J. Intake and/or FCIC, for existence of outstanding capias, pick-up orders or violations of probation for which the juvenile must be held.** This narrative does not require the deputy to make contact with D.J.J.; however, based on recent direction given by Sheriff's Office command staff, all deputies were to contact the Sheriff's Office Director of Juvenile Services, Director Carla Quann, whenever encountering an issue regarding/involving juveniles and/or D.J.J. This direction was passed down through the ranks via email as well as briefings given by district command staff.

Additionally, Sheriff's Office Policy Directive 44.2.50 outlines deputy discretion as it relates to juveniles. Two bullet points under this directive restrict the discretion a deputy may exercise when deciding whether to arrest a juvenile.

- All delinquent acts committed by juveniles on probation or parole or by those with a case pending
- All repeated delinquent acts (within the preceding 12 months)

The juvenile in question, had a criminal history dating back to 2016. In 2018, he had eight criminal charges filed on him with the most recent charge still pending as of June 9, 2018, as well as being a documented gang member. Had Sergeant Whitener, or any deputy on scene, contacted D.J.J. or

Ms. Quann, they may have been provided this information, which would have, according to Sheriff's Office policy, removed the deputy's, or sergeants, discretion on whether to effect an immediate arrest as opposed to filing a charging affidavit.

A series of emails were disseminated to all District – 6 sergeants from the District – 6 Assistant Commander, Lieutenant Newman. The first such email, dated November 2, 2017, contained subject matter titled, "Reminders Regarding Juveniles." The email had an attachment, which outlined procedures governing the taking of photographs, who to notify, juvenile ankle monitoring, missing juvenile reports and procedures on holding juveniles in custody. (*See Tab – O for Miscellaneous Documents*)

In another email, dated December 19, 2017, the narrative stated, "If you have any issues regarding/involving Juveniles and/or D.J.J., please ensure that you call Carla Quann (Sheriff's Office Director of Juvenile Services)."

The final email, dated January 10, 2018, stated, "Effective immediately, please call Carla Quann every time a juvenile is arrested." Sergeant Whitener replied to this email that same day asking, "no matter what time?" and Lieutenant Newman responded, "Correct, any time of day or night."

According to information obtained from the Computer Aided Dispatch (CAD) report and Force Watch, Sheriff's Office units were dispatched to 307 Riviera Drive at 1:20AM. Sergeant Whitener arrived on scene at 1:27AM, only to be re-directed to another call for service at 1:31AM; however, Sergeant Whitener responded back to 307 Riviera Drive where he remained for approximately ten minutes.

The primary unit, Deputy Jaydel Bernard, stayed on scene until 2:39AM. Deputy Bernard wrote in his incident report, that he completed a juvenile charging affidavit, which was to be sent to the State Attorney's Office, and the juvenile was released to a family member. The report contained no information about D.J.J. or Director Quann being contacted. According to the Sheriff's Office report writing system, Sergeant Whitener approved Deputy Bernard's incident report on June 10, 2018 at 4:59AM, confirming his knowledge of how Deputy Bernard handled the incident.

According to Lieutenant Newman's inquiry, on June 10, 2018 at 5:45PM, Sergeant Dan Shivers, who was assigned to District – 6, Debary, informed Lieutenant Newman of Sergeant Whitener's

failure in notifying Ms. Quann of the incident on Riviera Drive. Some of the juveniles encountered during the call on Riviera Drive, were known to have been involved in criminal activity in and around the District – 6 area. One in particular was, *“A well-known juvenile within the District – 6 area for his long list of criminal behavior.”*

In reference to the juvenile Deputy Bernard filed the affidavit on, Lieutenant Newman wrote, *“Deputies on scene developed enough probable cause to arrest [the juvenile] for criminal mischief, but instead the decision was made to file charges with the SAO [State Attorney’s Office]. Sergeant Whitener did not attempt to contact our Juvenile Services Director, Carla Quann, of the incident. Additionally, Sergeant Whitener never attempted to contact D.J.J. regarding this incident.”*

According to the inquiry, Sergeant Whitener did not notify Director Quann of the incident involving the juveniles as previously directed in Lieutenant Newman’s emails and briefings. Sergeant Whitener consulted Lieutenant Kyle Bainbridge [the night watch commander] who he said, gave him the go-ahead to file the criminal charge as opposed to making a physical arrest, but at the time, it was unknown if Lieutenant Bainbridge had knowledge of the juvenile’s criminal history. Lieutenant Bainbridge’s decision, to allow the filing of charges, did not preclude Sergeant Whitener from notifying D.J.J. or Director Quann.

Deputy Bernard was released from field training at the end of April 2018 and was assigned to Bravo patrol shift under the command of Sergeant Whitener, and assumed patrol duties in 62 zone. Detective Bennett reviewed Deputy Bernard’s Body Worn Camera (BWC) video on the call in question. During the course of the call, Deputy Bernard advised Sergeant Whitener he never arrested a juvenile nor was he aware of Sheriff’s Office policy governing the arrest of juveniles.

A decision was made to file charges on the juvenile rather than placing him in custody, which would have required the deputy to sit at the hospital for an injury he sustained from committing his alleged criminal act. Sergeant Whitener referenced how he believed D.J.J. would not take the juvenile into custody for criminal mischief and according to Sheriff’s Office reports, neither D.J.J. nor Director Quann were ever contacted. Furthermore, deputies on scene were getting no information back on the juveniles pertaining to their criminal history after conducting a standard

person's check through Sheriff's Office Central Communications. Overall, deputies had no information on their background, only what they collectively knew of the juveniles personally.

Sergeant Whitener eventually instructed Deputy Bernard to write the report and to complete the charging affidavit the following day. Sergeant Whitener stated he was going to verify he was handling the incident correctly and walked away saying, *"Let me make a call real quick."*

Had Sergeant Whitener followed prior direction in contacting Director Quann, he may have learned the juvenile whom the deputy was filing charges on, was a documented gang member with an extensive criminal history as well as a pending criminal charge. In addition, due to the potential for future issues with the six juveniles involved, Sergeant Whitener should have contacted D.J.J. and ascertained whether they would have taken the juvenile into custody instead of assuming they would not.

Documented in the inquiry, in addition to Lieutenant Newman's emails related to procedures governing juveniles, she wrote, *"Sergeant Whitener has been reminded numerous times [of directions governing juveniles] in formal meetings in my office and in more formal meetings, such as the sergeants meeting November 2, 2017."*

On June 14, 2018, Lieutenant Newman received notification that Sergeant Whitener had been involved in a crash with his patrol car on June 11, 2018. According to a report authored by Lieutenant Corey Piser, the night watch commander, Sergeant Whitener struck a deer at 5:55AM at Turnbull Bay Road/Creek Shore Trail in New Smyrna Beach, while on his way home from District – 6, DeBary. Sergeant Whitener reportedly checked his vehicle after the crash but saw no visible damage and the crash went unreported.

At approximately 6:30PM, on June 13, 2018, while getting his radar certification, another deputy observed the front-end damage to Sergeant Whitener's patrol car and brought it to his attention. Sergeant Whitener photographed the damage and notified the on-duty night watch commander, Lieutenant Piser.

After a few hours into his patrol shift, Sergeant Whitener began experiencing mechanical issues with his patrol car. The air conditioning system failed, along with the radiator fan and headlight resulting in Sergeant Whitener having to drop off his patrol car at the county maintenance facility

for repairs. Lieutenant Piser responded to the county maintenance facility and examined the damage, took additional pictures and completed a supervisory report.

Regarding the crash, Sergeant Whitener completed a Police Information report on June 13, 2018 at 6:30PM. According to the information report, on June 11, 2018 at approximately 5:55AM, he was driving north on Creek Shore Trail from Turnbull Bay Road in New Smyrna Beach when a small deer ran out striking the front right side of his patrol car. After striking the deer, Sergeant Whitener checked his patrol car, but was unable to find any damage.

A few days later, while getting his radar certification done, another deputy on scene noticed the damage to the front of his patrol car and brought it to his attention. Sergeant Whitener described the black plastic grill as damaged and missing. Photographs were taken and the night watch commander was notified.

Detective Bennett reviewed Force Watch, a software program that provides the location of the deputy using a Global Positioning System from the Automated Vehicle Locator (AVL) antennae attached to the Mobile Data Computer (MDC) in the patrol car. On June 11, 2018 at 5:55AM, Sergeant Whitener was traveling east on Orange Camp Road in Deland at approximately 46 MPH and showed no signs of stopping. This data does not coincide with Sergeant Whitener's version of events, given the location and time of the crash indicated in his report. *(See Tab – O for Miscellaneous Documents)*

According to the inquiry, Lieutenant Newman also reviewed Force Watch and verified Sergeant Whitener's location at the time of the reported crash. The District – 6 Commander, Captain Eric Westfall, was provided the locations of where Sergeant Whitener reportedly struck the animal along with the AVL position at the given date and time. Captain Westfall searched both locations for any sign of damage from the patrol car and the animal he reportedly struck, but was unable to locate any evidence of a crash at either location.

According to Sheriff's Office reports, Sergeant Whitener had completed his third night shift of three in a row on Monday, June 11, 2018 at 6:00AM, just after the reported time of the crash. He did not report for duty until his next scheduled shift on Wednesday, June 13, 2018 at 6:00PM; the date the crash was reported to Lieutenant Piser. According to fleet maintenance records, the cost

of damage to Sergeant Whitener's patrol vehicle was \$2,904.73. (*See Tab – O for Miscellaneous Documents*)

There were two issues reported on February 2, 2018, involving deputies under the command of Sergeant Whitener, where he may not have performed his duties effectively as a supervisor. Deputy Austin Graves submitted Sheriff's Office incident report 18 – 2549, which involved the theft of multiple tools valued at \$6,310.00. Deputy Graves submitted his original report, which was not approved by Sergeant Whitener because it lacked the proper Sheriff's Office documents. However, according to the inquiry, Sergeant Whitener did not recognize nor did he address other issues within the report including the poor investigation conducted by Deputy Graves. Having not addressed the issues with Deputy Graves, it fell upon Sergeant Shivers, the patrol shift supervisor relieving Sergeant Whitener, to review and assist Deputy Graves in correcting his report and investigation.

The second reported issue on February 2, 2018 occurred when Deputy Nick Williams, at the beginning of his patrol shift, informed Sergeant Whitener his patrol car had sustained a crack to the windshield. Rather than address the issue immediately during business hours, when the county vehicle maintenance facility was open, Sergeant Whitener had Deputy Williams handle calls for service, ultimately leaving the situation unresolved for the on-coming patrol sergeant, Sergeant Shivers.

Another incident occurred on July 7, 2018, where Sergeant Whitener did not properly notify command staff of a significant event involving a baby being left unattended in a car. Sergeant Whitener was on scene when he called Lieutenant Newman at approximately 3:40PM, advising her he was, "Out with a baby, alone in a car," and immediately followed up saying, "Oh never mind, the mom is right here." The call lasted approximately twenty-nine seconds, with Lieutenant Newman asking Sergeant Whitener if he needed anything, and to call her anytime. At 4:45PM that same day, Lieutenant Newman reviewed her emails and saw a Sheriff's Office press release from the PIO regarding a baby being left unattended in a car.

The press release stated the mom was charged criminally after leaving the baby unattended for approximately twenty-four minutes. According to the inquiry, Sergeant Whitener never passed on this information to Lieutenant Newman; information she deemed to be of significant importance.

Lieutenant Newman wrote, *“I reminded him of his responsibility to notify me of significant events and of his responsibility to update me as events change or unfold”* and Sergeant Whitener acknowledged, *“...that he should’ve notified me of all of all the details prior to reaching out to the P.I.O.”*

During business hours, the commander or assistant commander of each district office is designated the “Watch Commander” for their assigned district; all information deemed significant and/or important must be passed on through the chain of command. Sergeant Whitener did contact Lieutenant Newman; however, never advised her of all the details surrounding the incident nor did he advise her of a potential press release.

Lieutenant Michele Newman

On July 31, 2018, Detective Bennett along with Detective Tara Burke and Sergeant Ryan Mills conducted a sworn recorded interview with Lieutenant Michele Newman at the Sheriff’s administrative offices in Deland, FL. The following is a summary of that interview:

Lieutenant Newman has been with the Sheriff’s Office for nineteen years and has served as the assistant commander of District – 6 Debarry since October of 2014. Lieutenant Newman authored Supervisors Inquiry SI 18-005 on Sergeant Whitener who has served under her command at District – 6 for approximately two years.

According to Lieutenant Newman, she started the inquiry on Sergeant Whitener, *“...for his failure to notify our juvenile director Carla Quann of a significant juvenile arrest. That was the basis of the initial inquiry.”* Direction was given from Sheriff’s Office command staff that anytime there was a significant incident and/or arrest involving a juvenile, the Director of Juvenile Services, Director Quann, was to be notified. Lieutenant Newman passed this information onto Sergeant Whitener either in personal meetings, emails and formal sergeant briefings.

In reference to the incident involving the juvenile on June 10, 2018, both Sergeant Shivers and Director Quann notified Lieutenant Newman. According to Lieutenant Newman, Director Quann spoke to Sergeant Whitener after the incident and said, *“...she had spoken to Sergeant Whitener and she reminded him to notify her any time day or night regarding juveniles being arrested...”*

After speaking to Director Quann, Sergeant Whitener was contacted and asked why he never contacted Director Quann about the juvenile arrest, “...his explanation was that his shift was busy that night and he asked Lieutenant Bainbridge if charges could be filed on this specific juvenile. He said Lieutenant Bainbridge told him that would be fine...” However, Lieutenant Bainbridge never authorized him not to contact Director Quann.

A significant fact about this incident, according to Lieutenant Newman, the juvenile in question, “...was a documented gang member, so I mean not only was he [Sergeant Whitener] not following policy, it was, you know, a juvenile offender who was also a gang member.” Had Sergeant Whitener contacted Director Quann, he would have been advised of specific information the deputies on the street do not have access to. Since the juvenile in question resided in Seminole County, Director Quann would have been able to advise Sergeant Whitener or the deputies on scene of the juvenile’s criminal history and gang affiliation.

Deputies filed a charging affidavit on the juvenile, according to Lieutenant Newman, had they reached out to Director Quann, she would have given them the necessary information to effect a physical arrest. Lieutenant Newman was asked if the information Director Quann could have provided, would have forced Sergeant Whitener to make a physical arrest, and she replied,

“...it would be more common sense and using good judgement. Here we have a gang member from another county... we have probable cause to believe that he had been involved in this criminal mischief... and rather than make an arrest or at least going through the avenues that have been provided to us to see if we could make the arrest and if DJJ would hold him secure. Sergeant Whitener didn’t follow those protocols and elected to file an affidavit.”

On June 14, 2018, Lieutenant Newman received an email from Lieutenant Piser referencing a crash Sergeant Whitener had been involved in on June 11, 2018 at approximately 5:55AM in New Smyrna Beach, FL. Lieutenant Newman added, “And he is scheduled typically to work until 6 o’clock in the morning and would need to be in his area of responsibility, which is unincorporated Deland and Debary area until 6 o’clock...” During his patrol shift, Sergeant Whitener is the only supervisor assigned to District – 6, there was no swing shift sergeant that would have come on duty to relieve him any earlier than 6:00AM.

Lieutenant Newman checked Force Watch and discovered Sergeant Whitener was at Orange Camp Road and Southern Pines Place in Deland at the time he said the crash occurred. Lieutenant Newman has utilized the Force Watch software in the past, and according to her, it has proven to be relatively accurate. Being that Lieutenant Newman was Sergeant Whitener's immediate supervisor, had he been experiencing trouble with his AVL or MDC, he would have been required to report said trouble to her as soon as possible; something Lieutenant Newman said never occurred.

Lieutenant Piser relayed to Lieutenant Newman, "... *[Her] interpretation of what Sergeant Whitener was telling her on the 13th that there was very, very minor damage. When she [Lieutenant Piser] actually went out to look at the damage it was much more significant than what Sergeant Whitener had let on... [sic]*" This prompted Captain Westfall to inspect Sergeant Whitener's damaged patrol car, which according to Lieutenant Newman, was much more significant than first reported. Furthermore, Captain Westfall was provided the location of where Sergeant Whitener said the crash occurred as well as his location according to Force Watch given the same date and time of the crash. Captain Westfall went to these locations and found no evidence a crash occurred.

Also documented in the inquiry, were two more incidents involving Sergeant Whitener. On February 2, 2018, a newly assigned deputy to Sergeant Whitener's patrol shift submitted Sheriff's Office report 18-2549. Initially, Sergeant Whitener did not approve the report because it lacked certain Sheriff's Office documents, but according to Lieutenant Newman, he failed to recognize other significant issues with the report. Due to Sergeant Whitener's inability to identify and correct these issues, the responsibility then fell upon Sergeant Shivers, the oncoming patrol shift supervisor. Lieutenant Newman explained, "...*when Sergeant Shivers reviewed the report he found twenty additional issues with the report. The same report that Sergeant Whitener had reviewed.*" Sergeant Shivers has been known to be thorough with his reports, some of the mistakes may have been grammatical errors, but there were significant issues with the report that Sergeant Whitener did not address.

Sergeant Shivers sent an email to the deputy and members of the District – 6 command staff, outlining the issues contained within the report, "...*number twenty on the list was in my mind pretty significant. The deputy didn't articulate that he conducted a pawn data check on the website, which again is very basic.*" This database is available to all deputies, so unless a detective takes over a case it is incumbent on the deputy to utilize all resources available. According to

Lieutenant Newman, “...*the email that Sergeant Shivers sent to me detailing the 20 issues that he had. And again, while some issues are very minor typographical errors and grammatical issues some of them truly have substance as far as not canvassing and not properly interviewing and following up on leads.*”

On that same day, Deputy Nick Williams, who works the swing shift in District – 6, reported for duty at 3:00PM, “... *[Drove] into work and his windshield was cracked. He immediately came in, reported to Sergeant Whitener and rather than going out and addressing the situation, looking at the damage, dead lining the vehicle...He [Sergeant Whitener] sent Nick Williams out to respond to calls for service.*” Since Sergeant Whitener did not address the issue immediately, it was left for the nightshift supervisor, Sergeant Shivers to handle. Further complicating things, fleet maintenance works normal business hours, which made it more difficult for Sergeant Shivers to remedy the situation. Lieutenant Newman could not recall if it was busy at the time Deputy Williams reported the cracked windshield; furthermore, Sergeant Whitener never advised her of the issue and never requested assistance.

On July 17, 2018 at approximately 3:40PM, Lieutenant Newman received a call from Sergeant Whitener who advised her, “...*I’m out with a kid in a car or a baby in a car...and then as quick as he says it [he states] never mind there’s the mom,*” never offering any further information. According to Lieutenant Newman, she asked him if there was anything else and Sergeant Whitener replied, “*Nope nothing else.*”

Approximately one hour after speaking to Sergeant Whitener, Lieutenant Newman checked her email and saw a press release from the Sheriff’s Office Public Information Officer (PIO), “...*indicating that we’re [Sheriff’s Office] charging the mother criminally for neglect because she left the child unattended. A baby. An infant in the vehicle, for I think it was twenty-four minutes and Sergeant Whitener again didn’t see the significance of notifying his district lieutenant.*” Sergeant Whitener contacted the PIO and provided all the information pertaining to the incident but never notified his chain of command. Lieutenant Newman explained,

“...*during dayshift hours a sergeant notifies the district lieutenant and in their absence the district captain of any type of significant event that may end up resulting in a press release or anything that’s news worthy so that we can allow*

our chain of command the benefit of hearing about it prior to it being released to the news media and in this case that wasn't done. [sic]"

According to Lieutenant Newman, Sergeant Whitener received direction in the past pertaining to the notification of significant events to command staff. In this particular incident, Lieutenant Newman received no such notification and was unaware of the press release involving the district she was commanding. *(See Tab – E for Official Transcript)*

Lieutenant Kyle Bainbridge

On August 9, 2018, Detective Bennett along with Detective Burke and Sergeant Mills conducted a sworn recorded interview with Lieutenant Kyle Bainbridge at the Sheriff's administrative building in Deland, FL. The following is a summary of that interview:

Lieutenant Bainbridge has been with the Sheriff's Office for approximately eleven years and is currently the eastside night watch commander for the Alpha/Bravo patrol shift.

Lieutenant Bainbridge was working on June 9, 2018 and recalled being contacted by Sergeant Whitener in reference to a juvenile. How it was explained to Lieutenant Bainbridge was, a juvenile committed a non-violent misdemeanor and in doing so, sustained a laceration, which required him to be treated at the hospital. If the juvenile was taken into custody, a deputy would be required to accompany him until medically cleared. According to Lieutenant Bainbridge, *"He [Sergeant Whitener] wanted to run the scenario by me to ensure that they could just file an affidavit on this individual instead of sit on him at the hospital and make a physical arrest."* The filing of an affidavit would have been in lieu of taking the juvenile into custody, as well as standing by with him at the hospital and then transporting him to D.J.J.

While District – 6 units were handling the call involving the juvenile, District – 4 Deltona was dealing with a priority call, which involved numerous patrol units. It was Lieutenant Bainbridge's belief, since several units were busy in District- 4, District – 6 units may be needed for assistance and Sergeant Whitener did not want to have one of his patrol units busy at the hospital for an unknown period of time.

Lieutenant Bainbridge was never asked about contacting D.J.J. or Director Quann, *"I had no reason not believe...[sic]"* the proper notifications were being made. According to Lieutenant

Bainbridge, *“Per the direction from the agency, Director Quann should have been notified, but I don’t believe that DJJ would be notified unless they were making a physical arrest.”* Director Quann has access to several computer databases, which provide information on juveniles not readily accessible to deputies on the road, *“...if we arrest them or they’re involved in any criminal activity so she [Director Quann] can decipher whether they’re out past curfew, violating a court order or something of that nature...What gang affiliations they might have.”* Whether to contact Director Quann or not, was never part of the discussion between Lieutenant Bainbridge and Sergeant Whitener.

Lieutenant Bainbridge learned of the juvenile procedures through staff notes, which were passed down through the Sheriff’s Office chain of command. This information was typically passed on via email from his immediate supervisor. *(See Tab – G for Official Transcript)*

Director Carla Quann

On August 9, 2018, Detective Bennett along with Detective Burke and Sergeant Mills conducted a sworn recorded interview with Director Carla Quann at the Sheriff’s administrative building in Deland, FL. The following is a summary of that interview:

Director Quann has been the Director of Juvenile Services for the Sheriff’s Office since January of 2017. Her duties include being the liaison between the Sheriff’s Office and the Volusia County School Board, Department of Juvenile Justice and State Attorney’s Office. Prior to coming to the Sheriff’s Office, she held a similar position with the Daytona Beach Police Department for approximately ten years.

According to Director Quann, when deputies take law enforcement action on a juvenile, *“...before anything is done they should be contacting me via cell phone, text message to get a hold of me to find out what the status of the youth is. Whether the youth is on probation, teen court, intake, gang member.”* The only time you contact D.J.J. is if the deputy made the decision to take the juvenile into custody.

Director Quann has provided direction on what procedures deputies are to follow in handling juveniles. This direction was provided at, *“...weekly crime meetings...I explain to the captains*

what my position is, what I do...they [command staff] explain if they [deputies] make contact with a juvenile please contact Carla [Director Quann], she will help you through the process.”

The direction given by the Sheriff on how to handle juveniles is not outlined in department policy; however, Director Quann has disseminated the proper procedures to command staff via email and/or staff meetings, which was then passed on to the rank and file.

On the evening of June 9, 2018, Director Quann was not contacted by Sergeant Whitener or any member of his patrol shift. It was not until the following day when Sergeant Shivers sent her an email explaining what had occurred, “...giving me all the players involved in the incident...” Had Sergeant Whitener or any deputy on scene contacted Director Quann, she could have provided them information on the juveniles, “I could have provided information to him regarding his [the juvenile] criminal background and his status with the Department of Juvenile Justice and the court system.” Director Quann did speak to Sergeant Whitener the following day and he, “Just apologized and said it was an oversight.” (See Tab – F for Official Transcript)

Lieutenant Cory Piser

On August 14, 2018, Detective Bennett and Sergeant Mills conducted a sworn recorded interview with Lieutenant Cory Piser at the Sheriff’s administrative building in Deland, FL. The following is a summary of that interview.

Lieutenant Piser has been in law enforcement for approximately twenty-three years and has spent the last fourteen of those years with the Sheriff’s Office. Lieutenant Piser is currently the night watch commander on the Alpha/Bravo patrol rotation assigned to the east side of the county.

Sergeant Whitener contacted Lieutenant Piser on June 13, 2018 in reference to damage he sustained to his patrol car as a result of a crash that occurred on June 11, 2018. Sergeant Whitener was getting his radar and speedometer calibrated when another deputy saw the damage and brought it to his attention. Sergeant Whitener advised he struck a small animal on June 11, 2018 at Creek Shore Trail and Turnbull Bay Road in New Smyrna Beach, FL while on his way home from work. He took a picture of the damage and sent it to Lieutenant Piser. Lieutenant Piser recalled it was busy that night and since his vehicle was operable, she would get with him later in the shift.

Later that night, Sergeant Whitener contacted Lieutenant Piser while on the way to the county fleet maintenance facility because he was experiencing problems with his patrol car. Lieutenant Piser stated, *“His headlight went out. He said that his A/C had quit and... that his radiator fan belt had stopped working.”* It was believed, the problems he was experiencing were a result of the damage sustained in the crash.

When Sergeant Whitener initially contacted Lieutenant Piser, she did not interpret the damage to be that extensive; however, when she met him at the fleet maintenance facility and saw it for herself, *“I thought it was more extensively damaged than he had, one described to me, two then the picture had shown me.”* Furthermore, Sergeant Whitener said he checked his patrol car at the time of the crash and reportedly saw no damage.

Lieutenant Piser gathered all the information needed for her report and notified her supervisor. At the time, Lieutenant Piser was unsure how command staff wanted the incident handled, *“I was aware right away that he violated policy in not reporting the crash immediately so I suspected that him being a supervisor and obviously being familiar with the policy that they may want to look into it further.”* (See Tab – H for Official Transcript)

Sergeant Dan Shivers

On August 22, 2018, Detective Bennett along with Detective Burke and Sergeant Mills conducted a sworn recorded interview with Sergeant Dan Shivers at the Sheriff's administrative offices in Deland, FL. The following is a summary of that interview:

Sergeant Shivers has been with the Sheriff's Office since March 1, 2004 and is currently the Alpha shift patrol supervisor in District – 6 DeBary.

According to Sergeant Shivers, he received training and direction on the proper procedures when taking law enforcement action on juveniles. This information was clear and passed on to him, *“...through emails that we were to notify Carla Quann any time we were to do an arrest or file charges.”*

On Sergeant Shivers patrol shift, he requires each deputy to contact him when making an arrest, whether it be an adult or juvenile. When the arrest involves a juvenile, he notifies Director Quann and/or D.J.J., and according to Sergeant Shivers, these notifications are, *“...standard practice for*

the agency.” Sergeant Shivers further stated, “...*the policy or the direction we’ve been given is that she [Director Quann] just needs to be contacted prior to either releasing or making a decision to file an affidavit or to issue a civil citation.*” The notifications are made so Director Quann can utilize her databases to ensure the juvenile does not qualify for lesser-included charges; however, contacting Director Quann is not necessary when the circumstances involve non-criminal activity.

Sergeant Shivers first learned of the incident on Riviera Drive after being contacted by Director Quann about an unrelated issue involving a juvenile that was, unbeknownst to him, involved in the incident on Riviera Drive. This same juvenile was party to the others at the Riviera Drive incident, and according to Sergeant Shivers, has been a problem for District – 6 patrol units. Director Quann advised Sergeant Shivers she had no knowledge of the incident on Riviera Drive and was never contacted by Sergeant Whitener or any member of his patrol shift.

Sergeant Shivers contacted Sergeant Whitener, “*So I called Sergeant Whitener just to say, hey listen make sure we call Carla Quann on this one because it’s [juvenile] and he’s our local dirt bag.*” During this conversation, Sergeant Shivers learned Sergeant Whitener’s patrol shift was in contact with several juveniles the night before and never notified Director Quann. Sergeant Shivers explained, “*Let me call the lieutenant [Newman] before this turns into something major and just let her know that hey, listen Carla’s calling Chuck [Sergeant Whitener] because of something he didn’t do.*”

According to Sergeant Shivers, Sergeant Whitener’s decision to file an affidavit was acceptable; however, he failed to notify Director Quann prior to determining the proper course of action before making his decision. Sergeant Shivers stated, “*Could we have filed [affidavit] on him based on the charge, I think it was criminal mischief, misdemeanor criminal mischief, yes we could have. But you still have to call Carla [Director Quann]; you still have to call DJJ because they [the juvenile] could qualify for civil citations or other things.*”

On another issue, Sergeant Shiver’s patrol shift responded to a call involving a theft that occurred prior to his patrol shift coming on duty. The reporting party explained how a deputy, on Sergeant Whitener’s patrol shift, took a report and explained how he was going to do certain things pertaining to their case. Sergeant Shivers went and reviewed the deputy’s Body Worn Camera (BWC), and discovered the call was not handled appropriately and several mistakes were made,

“And afterwards I observed that his report was still in for review because it had been kicked back and it needed to be reviewed by a supervisor.” Upon reviewing the report, Sergeant Shivers found what he identified as multiple mistakes and/or issues related to its content and authored an email to the deputy outlining his findings in detail.

In reference to report writing, Sergeant Shivers explained, *“...I’m not gonna say hard on reports but I have a standard and my standard might be different than most I would say...we’re supposed to do good work and when you don’t...things get kicked back...”* Sergeant Shivers was not directed to review or approve the report, it was categorized in the database as unapproved, and being a supervisor, it is not uncommon to approve another patrol shifts reports. Sergeant Shivers spent approximately thirty to forty-five minutes addressing the issues related to a report written by a deputy assigned to Sergeant Whitener, when in Sergeant Shivers opinion, should have been handled by Sergeant Whitener.

In early February of 2018, Deputy Nick Williams reported for duty at 3:00PM only to find his patrol car had sustained a cracked windshield. Since his shift began at 3:00PM, his immediate supervisor was Sergeant Whitener until Sergeant Shivers reported to duty. According to Sergeant Shivers, when Deputy Williams began his patrol shift, he reported the cracked windshield to Sergeant Whitener, who had him answer calls for service rather than handle the problem. All Sergeant Shivers knew was, the deputy reported the issue to his immediate supervisor and the problem was not addressed.

Sergeant Shivers explained how a broken windshield is a, *“...major issue... It’s an immediate downing of that patrol vehicle... god forbid something happens and that crack causes an entire windshield to not do its job. So it’s incumbent upon us [supervisors] to down the vehicle, get it out to the barn and either use a loaner or try to secure another patrol car.”* Sergeant Shivers ordered Deputy Williams to park the vehicle, and being that it was after normal business hours, Deputy Williams had to use a District – 6 pool car rather than having one assigned from fleet management. Sergeant Shivers believed Sergeant Whitener could have handled this incident when Deputy Williams first reported it to him. *(See Tab – I for Official Transcript)*

Deputy Nicholas Williams

On August 23, 2018, Detective Bennett along with Detective Burke and Sergeant Mills conducted a sworn recorded interview with Deputy Nicholas Williams at the Sheriff's administrative offices in Deland, FL. The following is a summary of that interview:

Deputy Williams has been with the Sheriff's Office for approximately two and half years and is currently assigned to the Alpha/Bravo swing shift unit for District – 6, Debary.

When Deputy Williams reported for duty on February 2, 2018 at 3:00PM, he went to the district office and reported the cracked windshield to Sergeant Whitener. According to Deputy Williams, having not looked at the damaged windshield, Sergeant Whitener instructed Deputy Williams to handle a call for service. Deputy Williams could not remember the call he went to, but he knew he didn't need to write a report. Deputy Williams believed the windshield could have been taken care of when he initially reported it to Sergeant Whitener.

Approximately three hours later, when Sergeant Shivers reported for duty, the cracked windshield was addressed. *(See Tab – J for Official Transcript)*

Deputy Jaydel Bernard

On August 23, 2018, Detective Bennett along with Detective Burke and Sergeant Mills conducted a sworn recorded interview with Deputy Jaydel Bernard at the Sheriff's administrative offices in Deland, FL. The following is a summary of that interview:

Deputy Bernard has been working for the Sheriff's Office since November of 2017 and completed his field training in April of 2018 before being assigned to District – 6 Debary, where he served under the command of Sergeant Whitener. During his field training, Deputy Bernard never arrested a juvenile, nor was he familiar with the procedures on how to do so.

On June 9, 2018, Deputy Bernard was the primary deputy who responded to the 300 block of Riviera Drive in Debary for the report of a disturbance involving juveniles. Through the course of his investigation, he developed enough probable cause to arrest one of juveniles; however, neither Deputy Bernard nor any other deputy on scene, contacted Director Quann. According to

Deputy Bernard, he did not know Director Quann and was unaware of the procedures put in place by Sheriff's Office command staff.

At the time, according to Deputy Bernard, he never arrested a juvenile nor was he familiar with the procedures on what to do when taking law enforcement action on juveniles, "*...that was my first time really ever having contact with juveniles out in the field. And it [procedures] was just being explained to me in pieces as we started getting information taken care of.*" Throughout his field training, Deputy Bernard only learned "*bits and pieces*" of the procedures governing juveniles, "*Like I said throughout my whole field training we've never made contact with any juveniles for them [Field Training Officers] to really explain the process.*" His inexperience in dealing with juveniles was explained to Sergeant Whitener while at the scene of the incident and neither Sergeant Whitener or any other member of the patrol shift assisted him.

Since this incident, Deputy Bernard has received proper guidance and is aware of Sheriff's Office procedures when taking law enforcement action on juveniles, "*...a memo came out, I have to call Carla Quann based on any negative contact with juveniles.*" According to Deputy Bernard, knowing what he knows now of the information Director Quann could have provided, "*...that would have given me some inclination to you know make a, I guess a different I guess decision you would say.*" (See Tab – K for Official Transcript)

Captain Eric Westfall

On September 7, 2018, Detective Bennett conducted a sworn recorded interview with Captain Eric Westfall at the Sheriff's administrative offices in Deland, FL. The following is a summary of that interview:

Captain Westfall has been serving with the Sheriff's Office for twenty-five years and presently serves as the executive officer assigned to the Sheriff's administrative offices in Deland, FL. Prior to his present assignment, he served as the District – 6 commander in Debarry, FL.

On June 14, 2018, while assigned to District – 6, Captain Westfall received an email from Lieutenant Piser describing Sergeant Whitener's crash that occurred on June 11, 2018. According to Captain Westfall, this was the first he heard of the crash, having not been notified by anybody under his command.

Captain Westfall had several issues with the crash to include when and how it was reported. Upon reviewing the auto incident report, authored by Lieutenant Piser, “...*there was some indication that the reason why it wasn’t originally reported, because Sergeant Whitener looked at the area of impact and didn’t notice any apparent damage...*” The photographs attached to the auto incident report were not clear but showed obvious signs of damage, “...*which was a little concerning.*” Captain Westfall went to the county fleet maintenance facility to get a firsthand look at Sergeant Whitener’s damaged patrol car and, “*It was apparent to me based on the [damage], what I saw, it should have been very apparent to Sergeant Whitener that damage occurred at the time of occurrence. So the statement that he didn’t see any apparent damage was concerning.*”

Captain Westfall has an extensive background in traffic crash investigations, to include being a traffic homicide investigations supervisor while assigned to District – 4 Deltona. According to Captain Westfall, “...*I have basically most every traffic crash investigative class to include traffic crash reconstruction.*” In Captain Westfall’s opinion, “...*the damage was consistent with something the driver or occupant would be aware that [crash] occurred [sic].*” The damage was enough that, “...*it should have been apparent to the occupant or the driver that the, something hit the vehicle and that if someone looked at it, it was apparent that there was damage to the vehicle.*” Captain Westfall’s findings conflicted with Sergeant Whitener’s report where he documented, “*Sergeant Whitener checked his patrol car for damage and did not find any upon the initial inspection...*” – Sergeant Whitener.

In Sergeant Whitener’s report, it indicated the crash occurred in New Smyrna Beach at 5:55AM on June 11, 2018. Captain Westfall went to the location indicated in Sergeant Whitener’s report to look for any evidence of a crash, “...*everything wasn’t lining up and wasn’t reported as required I felt out of the abundance of caution it was incumbent upon me to at least go and do some fact finding.*” He walked a significant area around the intersection where the crash was reported to have occurred, walking on, “*Both sides of the railroad tracks to try to find parts of the grill, paint, blood, hair. Anything. I found nothing.*” During this time, Lieutenant Newman had researched Force Watch and discovered Sergeant Whitener’s location at the given date and time of the crash was in Deland not New Smyrna Beach.

Captain Westfall went to the location on Orange Camp Road in Deland, his search for evidence of a crash yielded negative results. He never got out of his patrol car to conduct the search; however,

according to Captain Westfall, “...*the grass was very, it was well mowed. I drove slow speed.*” Furthermore, he was unable to find the piece of missing grill at either location, which according to Captain Westfall, measured approximately sixteen inches by twelve inches judging from the hole. Captain Westfall was asked if he believed Sergeant Whitener’s report was accurate given the conflicting location indicated on Force Watch and he replied, “*No.*”

Captain Westfall has been Sergeant Whitener’s supervisor for approximately two years at two different district offices, and in that time, has maintained knowledge of his job performance. Captain Westfall described Sergeant Whitener’s performance as a supervisor,

“I think he’s hit or miss. He’s unfortunately he’s not consistent. You address issues and then he’ll fix those issues for a short period of time and then we find ourselves back in the same boat again so there’s no consistency which causes issues in terms of oversight management which had to be addressed by command staff. [sic]”

When Captain Westfall supervised him at District – 4 the issues was more administrative, but in, “...*District – 6 it became more of a judgement supervisory issue and that seems that was the reoccurring theme...we had to keep addressing with him being engaged with his people, making sure we were doing business as required or consistent with current direction or policy. [sic]”* When these issues were brought to Sergeant Whitener’s attention, Captain Westfall described him as “very amiable” as he would say he was going to do better. His reaction to Sergeant Whitener’s desire to do better made him believe the problem’s would be addressed; however, there were times this did not happen. Captain Westfall went on to explain, “*We’d have an intervention, he would start to kind of go back up a little bit and then left to his own devices would slip back into that downward slide.*”

According to Captain Westfall, Lieutenant Newman had multiple counseling sessions with Sergeant Whitener on ways to improve his job performance and he was offered assistance; however, as to the assistance, it becomes incumbent upon Sergeant Whitener to implement those strategies and/or things to help himself to fix or improve his performance as a supervisor. (*See Tab – L for Official Transcript*)

Sergeant Charles Whitener

On September 13, 2018, Detective Bennett and Detective Burke conducted a sworn recorded interview with Sergeant Charles Whitener at the Sheriff's administrative offices in Deland, FL. Also present during the interview representing Sergeant Whitener was Sean Gowan. The following is a summary of that interview:

Sergeant Whitener has been working for the Sheriff's Office for approximately fourteen years and was promoted to the rank of sergeant in 2012. Prior to his current assignment, Sergeant Whitener was assigned to patrol duties as a patrol shift sergeant for six years. His last tour of duty as a patrol sergeant was on Bravo patrol shift in District – 6 Debarry.

Beginning on the night of June 9, 2018, Sergeant Whitener's patrol shift responded to the area of Riviera Drive twice, with the last call-taking place in the early morning of June 10, 2018. Both calls were connected with probable cause being established to arrest a juvenile for intentionally breaking a window. Because of a major incident in the neighboring district, which depleted his manpower, coupled with the juvenile having to receive medical treatment, Sergeant Whitener, *"...made the determination that we're not gonna arrest him at this point to lose another deputy for probably three or four hours dealing with DJJ and the hospital..."* After making his decision, *"...I [Sergeant Whitener] called Lieutenant Bainbridge and told him...what we were doing, what my plan of action was. He concurred and agreed with that and said that's fine with him."*

Sergeant Whitener did not contact D.J.J., he explained, *"...I've read and understood we were to call DJJ when we were effectively making an arrest and we were not doing that."* Furthermore, he did not contact Director Quann, explaining,

"Once again with the emails and the directives I've got, my understanding was we were to call her if we made an arrest or if we had any issues involving DJJ or with a juvenile. My determination, I wasn't having any issues. I knew my plan of action, I knew what I was doing, I didn't feel the need to call her. [sic]"

Sergeant Whitener received the correspondence from command staff on the direction in which juveniles were to be handled. It was his interpretation of the direction set forth by command staff, that he contact Director Quann if he had "issues" with a juvenile, which according to him, was not

something he had. Sergeant Whitener did acknowledge some of the correspondence he received contained the instructions, *“...if we actually make an arrest to call Carla Quann. And in that instant I was not making a physical arrest so I did not feel the reason to call her at that time.”*

According to Sergeant Whitener, he was unaware at the time of the juvenile’s gang affiliation and stated, *“Everything we ran on him that night RMS (Records Management System) and everything we had access to didn’t say he was a documented gang member.”* According to Sergeant Whitener, prior to the incident in question, he never spoke to Director Quann about juveniles and was unaware of the access she had to certain juvenile databases.

Deputy Bernard, the primary deputy on scene, was new to Sergeant Whitener’s patrol shift and according to his BWC video, advised Sergeant Whitener he had no prior experience dealing with juveniles. Sergeant Whitener was asked why he didn’t take the opportunity to show Deputy Bernard the proper steps when dealing with a juvenile and he responded, *“Well in hindsight I guess I could have, but at the time with all the other circumstances going on with me going to other calls as well as listen up for calls in Deltona as well as he had another, a senior member of the shift on scene with him.”*

Sergeant Whitener’s decision on dealing with the incident the way he did was partly based on the amount of calls for service along with having to cover supervisory duties in a neighboring district. Furthermore, the juvenile was in need of medical attention, which meant if he was arrested, a deputy would have to stay with him for an unknown period of time creating a manpower issue.

In regards to the crash; Sergeant Whitener was involved in on June 11, 2018, he said he struck a small deer or animal near the intersection of Turnbull Bay Road and Creek Shore Trail in New Smyrna Beach at approximately 5:55AM. After striking the small animal, he stopped and checked his patrol car for damage, but did not find any. Sergeant Whitener did not notify a supervisor and explained, *“Because I got out, checked my car, didn’t see any damage. I checked for the animal I hit, couldn’t find it so I really didn’t deem it to be an accident. If I hit a raccoon or an opossum and nothing happens I don’t call anybody so I didn’t deem it necessary.”*

It wasn’t until Wednesday, June 13, 2018, that he reported the crash after another deputy pointed out the damage to his patrol car, *“I went and looked and saw a portion of the grated grill on the front of the car was popped, was busted out.”* After seeing the damage for the first time he

immediately contacted Lieutenant Piser, the night watch commander, took pictures of the damage and emailed them to her. Later that night, after experiencing mechanical issues with the patrol car, he drove it to county fleet maintenance where he met with Lieutenant Piser.

According to Sergeant Whitener, it appeared to him the damaged grill had gotten worse throughout his shift, and the hole had gotten larger than when he first looked at it. The grill was the only damage Sergeant Whitener observed; he reportedly never saw the dented hood or the cracked bumper. Furthermore, the patrol car's air conditioning stopped working, and according to Sergeant Whitener who is not a certified mechanic; none of these mechanical problems were a result of striking the small animal.

Sergeant Whitener documented in his report the crash occurred in New Smyrna Beach, but the data obtained from Force Watch placed him in Deland. According to Sergeant Whitener, *"The date and times [in his report] are as accurate as I can remember. They are not wrong."* It was his contention that Force Watch was providing false data and was incorrect in placing him in Deland at the given date and time. Mr. Gowan explained how there have been known technical issues with the AVL antennae which provides false information as to your location on Force Watch, *"So there's been known discrepancies with force watch and AVL based off of computer error."* There have been incidents where Force Watch showed the position of a patrol car miles away from its actual location and then corrected itself as the patrol car continued moving; however, there was no evidence of this occurring with Sergeant Whitener's patrol car on the given date and time of the crash. Sergeant Whitener explained, *"Sometimes AVL will go in and out all night and you won't know it until you try to do something with it and then you realize it's not working."*

Detective Bennett pointed out his position in Deland, using a Force Watch illustration, and explained how it showed his patrol car traveling at steady speed without interruption. According to Sergeant Whitener, he did not have any issues with his AVL or MDC that evening nor were there any issues reported to his immediate supervisor.

According to Sergeant Whitener, the crash occurred on Creek Shore Drive approximately a quarter to a half mile north of the intersection at Turnbull Bay Road. He wrote in his incident report in the "area of" Creek Shore Drive and Turnbull Bay Road since there were no other side streets or

landmarks given the remote area. Sergeant Whitener explained, *"So if he's [Captain Westfall] looking at the intersection no he's not gonna find anything."*

On another topic related to Deputy Grave's report, 18-2549, dated February 2, 2018. A report, which Deputy Graves submitted and was unapproved by Sergeant Whitener because it did not have the appropriate Sheriff's Office documents. This report was later reviewed by Sergeant Shivers who found several other issues ranging from grammatical errors to the criminal investigation itself.

Sergeant Whitener could not recall the initial reason he unapproved the report but, *"...that was what I found then and then I was waiting for him to resubmit it. However, I was 10-7 or off duty by the time he resubmitted it..."* He was going to address other issues within the report once Deputy Graves resubmitted it the second time.

On that same day, February 2, 2018, Deputy Williams reported for duty at 3:00PM and informed Sergeant Whitener the windshield on his patrol car was cracked. Sergeant Whitener did not immediately address the cracked windshield saying, *"...with him [Deputy Williams] being under Sergeant Shivers at the time I said let me get with Shivers, see if he wants to take care of this when he gets in...I got with Sergeant Shivers and he says 'I'll take care of it.'" According to Sergeant Whitener, he contacted Sergeant Shivers via text within minutes of being told about the windshield.*

At the time, Sergeant Whitener was unaware a cracked windshield meant the patrol vehicle was to be taken out of service immediately until properly repaired. Had he been aware of this at the time, he said, *"I would have took action and the car would have been towed out there [fleet maintenance facility]. But we've done that thousands of times across this agency of waiting until your day off to take care of that car."*

On July 17, 2018, Sergeant Whitener allegedly failed to convey to Lieutenant Newman, his immediate supervisor, the circumstances surrounding a significant event before authorizing a press release through the Sheriff's Office Public Information Officer (PIO). Sergeant Whitener responded to a call involving a baby being left unattended in a car and upon his arrival contacted Lieutenant Newman and briefed her on the incident. Before he finished briefing Lieutenant Newman, the mother was located and returned to the scene. According to Sergeant Whitener,

Lieutenant Newman was made aware of her return and they concluded their conversation; however, as the incident continued, he made the decision to contact the PIO without first notifying Lieutenant Newman.

Since the incident was attracting a big crowd, Sergeant Whitener wanted to notify the PIO in the event he received calls for information. He did not notify Lieutenant Newman of his decision, “...because in the past we’ve made tons of arrests for child neglect or something and have never called the chain of command to tell them about it.”

Sergeant Whitener was asked if he felt he violated the following Volusia County Merit System Rules and Regulations or Sheriff’s Office policies:

Volusia County Merit System Rules and Regulations 86-453

- | | |
|--|----|
| (1) Willful neglect in the performance of the duties of the position to which the employee is assigned. | NO |
| (2) Disregard for or frequent violations of county ordinances, departmental policies and regulations, including safety rules. | NO |
| (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. | NO |
| (10) Incompetent or unsatisfactory performances of duties. | NO |
| (13) Any conduct, on or off duty that reflects unfavorable county as an employer. | NO |
| (21) Any other conduct or action of such seriousness that disciplinary action is considered warranted. | NO |
| 26.2.23 Failure to Report Vehicle Accident | NO |
| 26.2.34 Failure to Follow Directive or Order | NO |
| 26.2.35 Submission of Reports and Documents | NO |
| 26.2.40 Negligence, Not Endangering | NO |
| 26.2.123 Prompt Compliance With Lawful Order | NO |

26.2.124 Compliance With Direct Order of a Superior or Competent Authority NO

26.2.134 Knowledge of Official Directives NO

(See Tab – M for Official Transcript)

CONCLUSION:

On September 17, 2018, this investigation was presented to the Sheriff and his command staff. After review, it was determined the violations of the below listed Volusia County Merit System Rules and Regulations and Department Standards Directives:

Volusia County Merit System Rules and Regulations 86-453

(1) Willful neglect in the performance of the duties of the position to which the employee is assigned. NOT SUSTAINED

(2) Disregard for or frequent violations of county ordinances, departmental policies and regulations, including safety rules. NOT SUSTAINED

(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. NOT SUSTAINED

(10) Incompetent or unsatisfactory performances of duties. NOT SUSTAINED

(13) Any conduct, on or off duty that reflects unfavorable county as an employer. NOT SUSTAINED

(21) Any other conduct or action of such seriousness that disciplinary action is considered warranted. NOT SUSTAINED

26.2.23 Failure to Report Vehicle Accident NOT SUSTAINED

26.2.34 Failure to Follow Directive or Order NOT SUSTAINED

26.2.35 Submission of Reports and Documents NOT SUSTAINED

26.2.40 Negligence, Not Endangering NOT SUSTAINED

26.2.123 Prompt Compliance With Lawful Order NOT SUSTAINED

26.2.124 Compliance With Direct Order of a Superior or Competent Authority NOT SUSTAINED

26.2.134 Knowledge of Official Directives

NOT SUSTAINED

On October 4, 2018, Sergeant Whitener submitted a request for voluntary demotion, which was accepted by the Sheriff. *(See Tab – B for Official Correspondence)*

WITNESSES:

**Lieutenant Michelle Newman
Volusia County Sheriff's Office
386-736-5961**

**Director Carla Quann
Volusia County Sheriff's Office
386-736-5961**

**Lieutenant Kyle Bainbridge
Volusia County Sheriff's Office
386-736-5961**

**Lieutenant Cory Piser
Volusia County Sheriff's Office
386-736-5961**

**Sergeant Daniel Shivers
Volusia County Sheriff's Office
386-736-5961**

**Deputy Nicholas Williams
Volusia County Sheriff's Office
386-736-5961**

**Deputy Jaydel Bernard
Volusia County Sheriff's Office
386-736-5961**

**Captain Eric Westfall
Volusia County Sheriff's Office
386-736-5961**

**Sergeant Charles Whitener
Volusia County Sheriff's Office
386-736-5961**

EXHIBITS:

- A. Report of Investigation
- B. Official Correspondence
- C. Administration of Oath/Perjury Warning
- D. Supervisors Inquiry
- E. Official Transcripts of Lieutenant Michelle Newman
- F. Official Transcripts of Director Carla Quann
- G. Official Transcripts of Lieutenant Kyle Bainbridge
- H. Official Transcripts of Lieutenant Cory Piser
- I. Official Transcripts of Sergeant Daniel Shivers
- J. Official Transcripts of Deputy Nicholas Williams
- K. Official Transcripts of Deputy Jaydel Bernard
- L. Official Transcripts of Captain Eric Westfall
- M. Official Transcripts of Sergeant Charles Whitener
- N. Sheriff's Office reports
- O. Miscellaneous Documents
- P. 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.

DETECTIVE: _____ DATE: _____

**Detective Glen Bennett
Internal Affairs Detective**

APPROVED BY: _____ DATE: 10/12/14

**Chief Deputy John Creamer
SHERIFF Michael J. Chitwood
VOLUSIA COUNTY FLORIDA**