DAYTONA BEACH POLICE DEPARTMENT
OFFICE OF PROFESSIONAL STANDARDS

INTERNAL INVESTIGATIVE REPORT
IA2016-002

April 6, 2016

Investigator(s)

James Chirco, Sergeant, Office of Professional Standards
Thomas Monaco, Detective, Office of Professional Standards

Employee(s)

James Brodick, Lieutenant, Support Services Division

Complainant(s)

Michael J. Chitwood, Chief of Police

Allegation(s)

- 200.13 Professional Conduct and Responsibilities
- 200.48 General Conduct
- 200.112 Employee Actions

Daytona Beach Police Department

Office of Professional Standards

MEMORANDUM

TO: Michael J. Chitwood, Chief of Police

FROM: James Chirco, Sergeant, Office of Professional Standards

SUBJECT: **Project No: 102-IA2016-002**

DATE: April 6, 2016

Synopsis

On October 19, 2015, I received some information from Lieutenant Garvin that he was apprised of an incident where Lieutenant Brodick was being accused of theft by one Dennis King. Mr. King alleged that Lieutenant Brodick had him arrested for incidents he feels were civil in nature. Officer Monde, at Lieutenant Brodick's request, completed an affidavit (20150019893) for Grand Theft and Obtaining Property by Fraud against Dennis King on October 5, 2015. The affidavit was placed into the affidavit book by Officer Monde. King was ultimately arrested on October 7, 2015 by Officer Gurucharri at 933 Beville Road. King counterclaimed and Officer Burns completed a report, labeling King's complaints as civil in nature (20150021088), on October 19, 2015. Officer Burns notified Sergeant Snowden of the allegations against Lieutenant Brodick. He in turn notified Lieutenant Garvin of the incident. Lieutenant Garvin, Officer Monde, Officer Burns, Chief Chitwood and I met in the Chief's conference room. Lieutenant Garvin briefly advised of the incident. Chief Chitwood advised to wait for the complaint to be completed by Mr. King and conduct an investigation.

King responded to the police department on October 20, 2015 for the purposes of filing a formal citizen's complaint. King met with Lieutenant Garvin, Sergeant Snowden and Detective Monaco in the sergeant's office. King showed the group several pages of text message communications between him and Lieutenant Brodick. He also shared how displeased he was with being arrested for what he felt was a civil complaint. King was given a citizen's complaint form and took it with him, along with the text message communication. As of this writing, King has never returned the complaint form and has not called this office.

The State Attorney's Office filed a "no information" in the criminal investigation of Dennis King on February 11, 2016. The State Attorney's also did not pursue any criminal case against Lieutenant Brodick. At the direction of Chief Chitwood, FDLE was contacted and provided a copy of the entire State Attorney's Office's case file to review on February 25, 2016. The case was returned March 14, 2016 and entered as returned on February 15, 2016 when Detective Monaco and I returned to work. FDLE Special Agent Supervisor, Daniel Warren of the Orlando office, reviewed the case file and decided there would be no criminal investigation opened against Lieutenant Brodick in reference to this incident.

Due to the original allegations brought forth by Dennis King and potential policy violations, Chief Chitwood authorized an internal investigation to be completed on Lieutenant Brodick on March 14, 2016.

Steve Yunick (Witness Officer)

On March 31, 2016 at approximately 0955 hours, Detective Steve Yunick responded to the Office of Professional Standards for the purposes of a recorded audio interview. Upon arrival, Detective Yunick read and signed the internal investigation pre-interview notification, which he understood. Detective Yunick was also sworn in during recording. Detective Yunick stated that he was working on October 5, 2015 as a property crimes Detective when he was contacted in his office by Lieutenant Brodick and Officer Monde, unsolicited. Detective Yunick stated that he was given an affidavit by Lieutenant Brodick for review. Detective Yunick stated that he doesn't remember Detective Sergeant Creamer being present during any of this. Detective Yunick stated that he reviewed the affidavit, at Lieutenant Brodick's request, and concluded that in his opinion, it was not criminal in nature. Detective Yunick stated that Lieutenant Brodick challenged his opinion and asked for him to explain. Detective Yunick then told Lieutenant Brodick that if he was investigating the case, he would advise the victim to send a certified letter to the suspect demanding the property back and any monies owed. If the suspect refused to comply, he would then proceed with criminal charges. Detective Yunick stated he does not remember calling the State Attorney's Office at any time. Detective Yunick stated that Lieutenant Brodick disagreed with his opinion. Detective Yunick stated that Officer Monde "didn't really say much" and didn't have an opinion about the affidavit that was verbalized. Detective Yunick stated that he does not know how the case was resolved.

Nicholas Gurucharri (Witness Officer)

On April 1, 2016 at approximately 0900 hours, Officer Nicholas Gurucharri responded to the Office of Professional Standards for the purposes of a recorded audio interview. Upon arrival, Officer Gurucharri read and signed the internal investigation pre-interview notification, stating that he understood. Officer Gurucharri was also sworn in by Detective Monaco. Officer Gurucharri stated that he was working on October 7, 2015 in the capacity of a patrol officer in district one. While doing so, Officer Gurucharri stated that then Sergeant Scott Lee called for a unit on the police radio in the 900 block of Beville Road. Officer Gurucharri stated that he answered the police radio and began to respond to the 900 block of Beville Road. While enroute, Officer Gurucharri stated that Sergeant Lee told him that there was an affidavit for a man named Dennis King at the front desk for theft and he was supposed to be at a business in the 900 block of Beville Road operating a white pickup truck. Officer Gurucharri stated that he accessed a photograph of King while enroute to the call and recognized him as somebody that he personally knew. Officer Gurucharri stated that he is not a friend of King's but knows him professionally through the racing business. Officer Gurucharri stated that he observed King while entering the business and flagged him down. Officer Gurucharri stated that King did not seem surprised by his presence. Officer Gurucharri stated that he advised King that he had a warrant

for his arrest and was taken into custody. Officer Gurucharri stated that he had no knowledge of the investigation prior to the arrest. Officer Gurucharri stated that one of the first things that King said was, "this is all because of James Brodick." Officer Gurucharri stated that he didn't know what that meant at the time. Officer Gurucharri described King's demeanor as calm but aggravated. Officer Gurucharri stated that the only contact he had with Lieutenant Brodick with regards to this investigation was calling him after King was arrested, as he was the victim. Officer Gurucharri stated that Lieutenant Brodick only stated, "thank you."

Officer Anthony Monde (Witness Officer, Interview Conducted by State Attorney's Office Investigator Joseph Sisti)

Officer Monde was interviewed by Investigator Sisti on December 23, 2015 at 129 Valor Boulevard at approximately 0853 hours. Officer Monde was shown the affidavit and confirmed that he authored and signed the affidavit on October 5, 2015. Officer Monde stated that he was originally advised of the allegations against Dennis King from Lieutenant Brodick at an off duty function on October 3, 2015. Officer Monde stated that he and Lieutenant Brodick were both on duty during the drafting of this affidavit in question on October 5, 2015. All the evidence shown to Officer Monde by Lieutenant Brodick led him to believe that criminal charges were justified against Dennis King. He was also advised by Lieutenant Brodick that he ran the affidavit information up the chain of command and it was acceptable to proceed. After completing the affidavit Officer Monde responded to Lieutenant Brodick's office for his review. Sergeant Creamer was called there by Lieutenant Brodick to have a third opinion. Officer Monde stated that Sergeant Creamer advised that there was probable cause there for an arrest. The affidavit was then brought up to Detective Yunick who advised to send a ten (10) day letter for civil process. Sergeant Creamer and Detective Yunick both recommended that the affidavit be direct filed with the State Attorney's Office and no arrest made at that time. Lieutenant Brodick disagreed and stated, "No, we're going to arrest this guy". Sergeant Creamer suggested contact with the State Attorney's Office so a review could be conducted before an arrest was made. No contact was made with the State Attorney's Office and the affidavit was then placed into the book after review and signature from Sergeant Stelter.

Sergeant John Creamer (Witness Officer, Interview Conducted by State Attorney's Office Investigator Joseph Sisti)

Sergeant Creamer was interviewed by Investigator Sisti on December 23, 2015 at 129 Valor Boulevard at approximately 0938 hours. Sergeant Creamer was shown the affidavit in question and believed it to be the same he was shown and spoken to about on October 5, 2015. Sergeant Creamer was asked to go to

Lieutenant Brodick's office on October 5, 2015 for his opinion on the affidavit against Dennis King. Officer Monde and Lieutenant Brodick were both present. Sergeant Creamer read the affidavit and stated to both of them that the case was civil in nature and the police department should not be involved with the case. He recommended to Lieutenant Brodick that he speak with a private attorney, call the State Attorney's Office or direct file the affidavit and let the State Attorney's Office make the filing decision. Sergeant Creamer also stated that he spoke with Darrell Runge in reference to a similar case and it was deemed civil in nature. He advised Lieutenant Brodick and Officer Monde of this information.

Lieutenant James Brodick (Subject Officer)

On April 5, 2016 at approximately 1003 hours, Lieutenant James Brodick responded to the Office of Professional Standards for the purposes of a recorded audio interview. Upon arrival, Lieutenant Brodick read and signed the internal investigation pre-interview notification, stating that he understood. Lieutenant Brodick was also sworn in during recording. Lieutenant Brodick stated that he has known Dennis King for approximately 15 years, as he has completed work on several of his vehicles in the past. Brodick stated that he and King entered into an agreement to work on Brodick's 1939 Ford. Brodick stated that he gave King a large amount of cash to complete the work on his vehicle. As time went on, Brodick noticed that very little work was being completed on his vehicle and he began to worry, thinking that he may be getting scammed. Brodick stated that King had possession of his vehicle for approximately 2 years. Brodick stated that there was no written contract between the two parties and King had possession of all receipts due to personal family matters. After much frustration, Brodick began sending text messages to King, as well as seeing him in person to voice his displeasure. Brodick stated that he tried to get possession of his vehicle back several times, but there was always an excuse by King. Brodick stated that he then found out about King's criminal past. The next time Brodick contacted King, he told Brodick to contact his business partner, Glenn Cox. Upon doing so, Cox told Brodick that King never told him to order parts for him and never told him of the money that Brodick was giving him. Brodick stated that Cox told him that King had a "problem with pills and prostitutes." Brodick then demanded his vehicle back. Brodick called a tow service and removed his vehicle from the property without all of the parts, according to Brodick. Brodick stated that he photographed all items that were there. Brodick stated that he brought Officer Anthony Monde with him to retrieve parts. Brodick stated that he saw Officer Monde at an off duty work function on October 3, 2015 and he "ran the situation by him." Brodick stated that he asked Officer Monde to complete a police report when they got back to work, as he felt that Officer Monde was a detailed report writer. Brodick stated that he never ordered Officer Monde to write the report. Brodick stated that Sergeant Stelter was aware of the request. Brodick stated that he was on duty when the report was completed. Brodick stated that he notified Captain Blanchette of the incident as well. Brodick stated that Officer

Monde thought there was probable cause for arrest. They then ran it by Sergeant John Creamer, who felt it was more of a civil issue. Brodick stated that there was a difference of opinion amongst the parties over civil vs criminal. Brodick stated that the State Attorney's Office was never contacted, but should have been. Brodick stated that he made a poor decision out of frustration. Brodick believes that the complaint affidavit was placed into the book before Officer Monde's tour of duty ended that day. Brodick stated that he never touched the affidavit. Brodick stated that Detective Yunick recommended sending King a 10 day letter, which he did. Brodick stated that he received a call from Glenn Cox on October 7, 2015 stating that King was at an auto shop at 933 Beville Road. Brodick then called then Sergeant Lee, who called Officer Nicholas Gurucharri to effect arrest. Brodick stated that he never ran anything by an attorney, due to an error in judgement. Brodick stated that he takes full responsibility for his actions and decision. Brodick stated that he was going through a divorce at the time and may have rushed this incident due to the fact that he had to declare his assets for divorce proceedings. Brodick stated that he received a call from ASA Opsahl stating that they "no filed" the case due to case law. Brodick stated that ASA Opsahl initially told him that there was probable cause for arrest but needed a little more evidence to move forward. Brodick stated that he was very disappointed in the SAO's decision to "no file." Brodick stated that he contacted ASA Opsahl several times because she was not getting back to him in a timely manner, as he was dealing with deadlines related to the divorce proceedings. Brodick stated that he did not conduct his own investigation. Brodick stated that Chief Chitwood and the command staff constantly asked about a filing decision and that's the reason why he asked ASA Opsahl several times about a decision. Brodick stated that he takes full responsibility for his actions and feels bad about putting other officer's in a bad position.

Investigative Summary

Lieutenant Brodick dropped off his personal vehicle to Redline Performance, 405 N. Charles Street, sometime in May of 2014 for restoration. He had a verbal agreement and had text message communication with business owner, Dennis King, but never any written and/or signed contract for services. Money exchanged hands and some work was completed but Lieutenant Brodick believes that Mr. King started to ignore him and was not completing agreed upon services and work to his vehicle. He needed the vehicle finished and/or at least running so it could be appraised as part of Lieutenant Brodick's assets in a potential divorce proceeding. After approximately seventeen (17) months and the vehicle not being finished, Lieutenant Brodick met with King's business partner Glenn Cox and retrieved vehicle parts and the vehicle from 405 N. Charles Street, finalizing the tow of the vehicle to his private residence on October 5, 2015. Lieutenant Brodick had spoken with Officer Monde at an off duty function on October 3, 2015. Lieutenant Brodick relayed the information that he felt he was a victim of theft and fraud and wanted to file charges against Mr. King

because he had vehicle parts missing and work not completed. On October 5, 2015, Officer Monde met with Lieutenant Brodick while both were on duty. Lieutenant Brodick handed Officer Monde a completed sworn statement and Officer Monde completed a complaint affidavit against Dennis King alleging Grand Theft and Obtaining Property by Fraud. After speaking with Sergeant Creamer and Detective Yunick and being told by both that it was more of a civil matter, the complaint affidavit was placed into the affidavit book with no State Attorney contact. On October 7, 2015, Lieutenant Brodick received a phone call in the morning from Glenn Cox stating that Dennis King was at 933 Beville Road. Lieutenant Brodick called Sergeant Lee and he in turn advised Officer Gurucharri of King's possible location. Officer Gurucharri responded to that location and effected an arrest on Mr. King. No other investigation was done and Dennis King was not interviewed.

Mr. King filed a cross complaint report of theft against Lieutenant Brodick on October 19, 2015 with Officer Burns. Officer Burns found the claim to be civil in nature and no charges were filed but an incident report was completed. Lieutenant Garvin was made aware of the allegations made by Dennis King and they were brought to Chief Chitwood's and the Office of Professional Standards attention. Dennis King was afforded the opportunity to file a formal complaint and was provided with a complaint form by Sergeant Snowden. Dennis King has filed no formal complaint as of this document.

On February 11, 2016, the State Attorney's Office did not find probable cause to proceed with charges against King due to the case law of Segal v. State. The case law states that "evidence of actual performance of some portion of the contract negates an intent not to perform at the inception of the contract" and "cannot be proven that King had requisite specific intent to commit theft" because some of the work had been completed. At the direction of Chief Chitwood, the case file was turned over to FDLE in Orlando on February 25, 2016, to complete a criminal inquiry of the case in reference to Lieutenant Brodick. On March 14 the case file was returned and the Office of Professional Standards was notified that no criminal case would be opened against Lieutenant Brodick.

Lieutenant Brodick was on duty and utilized on duty resources and became personally involved in the decision to file charges against Dennis King and did not consult with the State Attorney's Office. Lieutenant Brodick did not notify his direct supervisor of the decision to arrest Mr. King, only that an incident report was being completed listing him as a victim. Lieutenant Brodick should have let other, impartial employees perform an inquiry and conduct any potential investigation. Lieutenant Brodick let his emotions cloud his judgment and he in turn had someone arrested where it was ultimately decided by the State Attorney's Office to be a civil issue. Lieutenant Brodick takes full responsibility for his violations and admitted it should have been handled differently.

Findings

These are the findings of the Office of Professional Standards regarding the allegations against Lieutenant James Brodick:

1. ***200.13 Professional Conduct and Responsibilities:*** *Every employee and member shall be required to establish and maintain a working knowledge of the Federal, State and local laws and ordinances that he/she is charged with enforcing. Every member and employee is expected to observe and obey laws and ordinances, and the rules, orders and directives of the department.*

   Lieutenant Brodick violated two (2) other directives by becoming personally involved in his own investigation and utilizing on duty resources for personal reasons. This allegation is therefore;

   SUSTAINED

2. ***200.48 General Conduct:*** *No employee shall engage in any activities or personal business while on duty which may cause neglect or inattention to duty, including, but not limited to, the use of department owned equipment for personal use.*

   Lieutenant Brodick directed Officer Monde to complete a charging affidavit against Dennis King while he was on duty. He also went with Officer Monde to 405 N. Charles Street while on duty to conduct further investigation, neglecting his professional duties. This allegation is therefore;

   SUSTAINED

3. ***200.112 Employee Actions:*** *Employees shall not conduct or participate in the investigation of a crime in which they are not assigned, or the employee or a family member is the victim, or friend or business partner. Employees shall avoid official and personal involvement in the investigation of these cases and immediately notify their supervisor if their participation in the investigation becomes necessary. If the Daytona Beach Police Department is conducting the investigation, it will be handled by an impartial member. This regulation does not preclude employees from taking enforcement action under exigent circumstances, regardless of whether the employee or their family members are the victim.*

   Lieutenant Brodick was personally involved in this investigation. His participation was necessary to conduct a thorough investigation and he did not notify his direct supervisor of the decision to move forward with an

arrest without State Attorney review or impartial review by other police department members. This allegation is therefore;

SUSTAINED

Witnesses/Interviews

The following individuals were interviewed concerning this investigation:

- Detective Steve Yunick (Witness Officer)
- Officer Nicholas Gurucharri (Witness Officer)
- Lieutenant James Brodick (Subject Officer)

Witnesses/Interviews from Criminal Investigation

The following individuals were interviewed by State Attorney's Office Investigator Joseph Sisti as part of the criminal investigation:

- Officer Anthony Monde (Witness Officer)
- Sergeant John Creamer (Witness Officer)

Exhibits

- Memoranda
- Interview Transcripts
- Miscellaneous Investigative Documents
- Audio Recordings