

FDLEFlorida Department of
Law Enforcement**INTERNAL INVESTIGATION REPORT**
Incorporated by Reference in Rule 11B-27.003(2)(a), F.A.C.CJSTC
78

Please type or print in black or blue ink and use capital and small letters for names, titles, and addresses

OFFICER

1. Social Security Number:
2. Officer's Name:
3. Officer's Last Known Address:
4. Officer's Telephone Number:

Gayer, Wyatt K**AGENCY**

5. Agency ORI: **FL0640000**
6. Agency Name: **Volusia County Sheriff's Office**
7. Agency Contact Person: **Lt. Paul Adkins**
8. Agency Contact Person's Telephone Number: **(386)736-5961**
9. Agency FAX Number: **(386) 740-5190**

VIOLATION - ALLEGATION

10. Nature of Allegation(s): **Deputy was suspected of participating in an unauthorized pursuit.**
11. Agency Disposition: **Sustained - (Violation of Section 943.13(4) or (7) or Rule 11B-27.0011, F.A.C.)**
Sustained - (Violation of Agency Policy) **Not Sustained** **Unfounded** **Exonerated**

12. Limitation Period for Disciplinary Action: **Date Internal Investigation Initiated: 05/05/11** **Date Internal Investigation Completed: 06/21/11**
- Exception to limitation period for disciplinary action: Place a check mark by the exception to limitations that apply**
- | | Days Tolloed |
|--|---------------------|
| <input type="checkbox"/> Written waiver of limitation by officer | |
| <input type="checkbox"/> Ongoing criminal investigation or criminal prosecution | |
| <input type="checkbox"/> Officer incapacitated or unavailable | |
| <input type="checkbox"/> Multi-jurisdictional investigation | |
| <input type="checkbox"/> Emergency or natural disaster as declared by the Governor | |

13. Criminal Charges Filed: **None.**14. Agency Disciplinary Action: **None.**

15. If the allegation has been sustained and determined to be a violation of Section 943.13(4) or (7), F.S. or Rule 11B-27.0011, F.A.C., attach and forward the following documentation to the Florida Department of Law Enforcement.

- | | | |
|--|--|---|
| <input type="checkbox"/> Summary of the Facts | <input type="checkbox"/> Internal Investigation Report | <input type="checkbox"/> Name & Address of Witness |
| <input type="checkbox"/> Witness Statement/Disposition | <input type="checkbox"/> Certified Court Documents | <input type="checkbox"/> Other Supportive Information |

NOTICE: Pursuant to Section 943.1395(5), F.S., an employing agency must conduct an internal investigation when having cause to suspect that an officer it employs is not in compliance with Section 943.13(4) or (7), F.S. or Rule 11B-27.0011, F.A.C. If the investigation is sustained, the employing agency must forward a report to the Commission as specified by Rule 11B-27.003.

William R. Lee
16. Agency administrator's signature

7/8/11
17. Date Signed

WILLIAM R. LEE CHIEF DEPUTY
18. Agency administrator's name and title

FDLE

Florida Department of
Law Enforcement

INTERNAL INVESTIGATION REPORT
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CJSTC
78

Please type or print in black or blue ink and use capital and small letters for names, titles, and addresses

OFFICER

- 1. Social Security Number:
- 2. Officer's Name: **Cobb, Brian P,**
- 3. Officer's Last Known Address:
- 4. Officer's Telephone Number:

AGENCY

- 5. Agency ORI: **FL0370800**
- 6. Agency Name: **Florida Fish And Wildlife Conservation Commission**
- 7. Agency Contact Person: **Lt. Paul Adkins**
- 8. Agency Contact Person's Telephone Number: **(386) 736-5961**
- 9. Agency FAX Number: **(386)740-5190**

VIOLATION - ALLEGATION

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- Ongoing criminal investigation or criminal prosecution
- Officer incapacitated or unavailable
- Multi-jurisdictional investigation
- Emergency or natural disaster as declared by the Governor

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- 14. Agency Disciplinary Action: **None.**

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- Summary of the Facts Internal Investigation Report Name & Address of Witness
- Witness Statement/Disposition Certified Court Documents Other Supportive Information

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16. Agency administrator's signature: *William R. Lee* 17. Date Signed: *7/8/11*

18. Agency administrator's name and title: **WILLIAM R. LEE CHIEF DEPUTY**

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

REPORT OF INVESTIGATION

REPORT NUMBER: IA- 11-003

PERIOD COVERED: October 10, 2010

DATE REPORTED: May 5, 2011

SUBJECT(S) NAME: Deputy Wyatt Gayer ID #7549
Deputy Brian Cobb ID #7550

INVESTIGATING OFFICER: Lieutenant Paul Adkins
Sergeant Tim Morgan

BASIS FOR INVESTIGATION:

On May 3, 2011, the Internal Affairs unit received a request for information from Ms. Ruth Osteen in reference to a Notice of Claim sent on behalf of Mrs. Laura Blacklock by Morgan and Morgan P.A. In the Notice of Claim, it alleges that in the afternoon of October 10, 2010, Mrs. Blacklock was struck and injured by a vehicle that was being pursued by the Volusia County Sheriff's Office in the area of State Road 40 and County Road 3. Research of Volusia County Sheriff's Office records indicated that there was no documented following or pursuit in the area of this crash during this period of time.

OFFENSE(S):

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.)*

To Wit: 41.2 Vehicle Pursuit Apprehensions

And, Volusia County Merit System Rules and Regulations 86-453 (13)., Any conduct, on or off duty, that reflects unfavorably on the County as an employer. *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.*

INVESTIGATIVE SUMMARY:

On May 5, 2011, Chief Deputy William Lee assigned the above-described incident to the Internal Affairs Unit for investigation. This report details the investigation conducted by Lieutenant Paul Adkins and Sergeant Timothy Morgan.

On May 5, 2011, Lieutenant Adkins conducted CAD search of the incident as described in the complainant. Lieutenant Adkins discovered on October 10, 2010, Mrs. Laura Blacklock was involved in a traffic crash while operating her motorcycle at the intersection of County Road 3 and State Route 40. (See Call # P102830786) Lieutenant Adkins also discovered that just prior to the crash, Deputy Brian Cobb and Deputy Wyatt Gayer were responding to a disturbance call at 909 Center St, located in Pierson Florida, which is in the same general area as the crash. (See Call #P102830777)

On May 5, 2011, Lieutenant Adkins contacted Mr. Tim Jolley, with the Volusia County Sheriff's Office Information Technology Department, to obtain the AVL history (Global Positioning System) of Deputy Wyatt Gayer and Deputy Brian Cobb on October 10, 2010. Mr. Jolley advised that the GPS is only archived for (6) six months and the information requested could not be retrieved.

On May 5, 2011, Lieutenant Adkins contacted Mr. Glen Lopez (Volusia County Sheriff's Office Communications) and requested recordings of all radio traffic, and telephone calls associated with Call # P102830777 (Crash) and Call # P102830786 (Disturbance). Mr. Lopez advised that Mr. Randy Zentz would complete the request.

On May 5, 2011, Lieutenant Adkins served Deputy Brian Cobb with a Notice of Internal Investigation and provided him with a copy of the Law Enforcement Officers Bill of Rights.

On May 5, 2011, Investigator Gabriel, of the Internal Affairs Unit, served Deputy Wyatt Gayer with a Notice of Internal Investigation and provided him with a copy of the Law Enforcement Officers Bill of Rights.

On May 9, 2010, Lieutenant Adkins received the recordings from Mr. Zentz. These recordings were of 911 calls made by Captain Dan Clifford (Marion County Fire Rescue), Mr. Joseph Blacklock Jr., Mr. Matthew Roth, two unidentified callers, and radio traffic associated with calls #P102830777 and #P102830786 transmitted on District 2's primary communications channel and talk around channel, TAC2. A review of the recordings revealed:

On October 10, 2010 at 11:28 hours, Central Communications received a 911 call from an unidentified person reporting a disturbance involving three (3) subjects and the caller's father at a residence located at 909 South Center Street in Pierson. The caller advised the disturbance was over the possession of a dog. At 11:30 hours, Deputy Cobb was dispatched to the disturbance call and Deputy Gayer advised Central Communications that he (Deputy Gayer) was en route to the disturbance as backup. Prior to Deputy Cobb arriving on scene, the caller advised the subjects were

leaving on foot. This information was relayed to Deputy Cobb who was traveling on US 17 northbound. Deputy Cobb shortly thereafter advised Central Communications that he (Deputy Cobb) observed a maroon vehicle traveling southbound on 17 and thought that the suspects may be inside. Deputy Cobb advised Central Communications that he (Deputy Cobb) was attempting to turn around, and conduct an investigatory stop on the vehicle. However, shortly after Deputy Cobb's transmission, he (Deputy Cobb) re-contacted Central Communications advising that the vehicle had turned onto Emporia Road Westbound and prior to his (Deputy Cobb's) arrival to Emporia Road and County Road 3, he (Deputy Cobb) lost sight of the vehicle. Deputy Cobb then informed Central Communications that he (Deputy Cobb) was unable to contact the vehicle and was responding to 909 South Center Street.

At approximately 11:36 hours, Central Communications began receiving 911 calls reporting a motor vehicle crash at State Road 40 and County Road 3. Central Communications diverted Deputy Gayer to the vehicle crash. Shortly after this transmission, Central Communications updated Deputy Gayer and Deputy Cobb that one of the vehicles involved in the crash had fled the scene, and that the vehicle also matched the description of the vehicle that Deputy Cobb intended to stop that was possibly involved in the disturbance at 909 South Center Street. Deputy Cobb advised Central Communication that he (Deputy Cobb) would be responding to the location of the vehicle crash. Central Communications continued to update the responding deputies with information provided by 911 callers prior to their arrival on scene. Both Deputy Cobb and Deputy Gayer arrived at the crash without locating the suspect vehicle.

A 911 call was received from Mr. Joseph Blacklock Jr., the husband of the motorcycle rider that was struck. In Mr. Blacklock's 911 call, he reports the location of the crash, the fact that his wife, has been injured, and that the vehicle involved had fled the scene. During this call, Mr. Blacklock states to the dispatcher, *"I need a cop to get out here on County Road 3 and get this piece of shit."*

An additional 911 caller identified himself as an off duty Marion County Firefighter (Captain) Dan Clifford. Captain Clifford initially called 911 advising Central of the vehicle crash, and that he was attempting to locate the suspect vehicle to obtain additional information. Mr. Clifford relayed information to Central until advising he was returning to the crash scene.

911 calls were also received from Mr. Matthew Roth and two other unidentified persons who relayed information regarding the location of the crash and requesting assistance for the injured motorcycle rider.

During a review of all of the 911 call recordings, this investigator was unable to hear any indication, neither through statements made by the callers nor background sound in the calls, indicating that any law enforcement vehicles were involved in the crash.

A copy of the long form crash report completed by Florida Highway Patrol Trooper L.A. DeLeon in reference to this crash (FHP case# FHPD10OFF090570, HSMV report# 80630930) was obtained reviewed. The report documents Trooper DeLeon's investigation of the crash and does not

indicated anywhere within the report that the crash was the result of a law enforcement pursuit.

On May 6, 2011, Sergeant Timothy Morgan along with Lieutenant Paul Adkins conducted a recorded interview with Captain Daniel Clifford at the Marion County Fire Station Four located at 16004 State Road 40 in Marion County.

Captain Daniel Clifford

Captain Clifford stated that on October 10, 2010 he and his wife, Amy Clifford, were travelling eastbound on State Road 40 within Volusia County. Captain Clifford advised while they were travelling eastbound on State Route 40 at approximately 60 miles per hour towards County Road 3 when a group of motorcycles travelling in the same direction passed them (Captain Clifford and Amy Clifford). Captain Clifford estimated the motorcycles were about one quarter to a half mile ahead of his vehicle and near the intersection. Captain Clifford said he briefly lost sight of the motorcycles as they rounded the curve near County Road 3 eastbound. Captain Clifford advised that when he rounded the curve, he noticed a large dust cloud, and a motorcycle go off the road and another vehicle appear to leave the scene.

Captain Clifford advised he stopped at the crash scene briefly to drop his wife off, and immediately drove south on County Road 3 which was the direction others at the crash scene were pointing. Captain Clifford said he called 911 as he drove southbound on County Road 3, looking for the vehicle. Captain Clifford advised he drove southbound for several minutes before giving up and returning to the scene of the crash. Captain Clifford stated that when he arrived back at the crash scene, there was at least one emergency vehicle on scene, but that a Sheriff's Office vehicle did not arrive until shortly after he had returned to the crash scene.

Captain Clifford said that he did not hear any sirens or see any Sheriff's Office vehicles in the area prior to him returning to the crash scene. *(See Tab-F for complete transcript)*

On May 12, 2011, Sergeant Timothy Morgan along with Lieutenant Paul Adkins conducted a recorded interview with Mr. Matthew Roth at Underhill Ferneries/ The Magnolia Company located at 185 West State Road 40 in Barberville, Florida.

Matthew Roth

Mr. Matthew Roth said that on October 10, 2010, he was working in the back area of 185 West State Road 40 (The Magnolia Company) when he said he heard the impact of a collision. Mr. Roth said he called 911 as he walked over to the intersection of State Road 40 and County Road 3. Mr. Roth said it took him approximately fifteen to twenty seconds to walk from his business to the intersection where saw a motorcycle and a female lying in the grass. Mr. Roth said he saw a male talking on a cellular telephone and a male and female attending to the female lying in the grass.

Mr. Roth advised he was not exactly sure in which order the emergency vehicles arrived at

the scene of the crash. However, Mr. Roth was positive that he was there prior to any law enforcement or rescue vehicles and positive that he did not hear any sirens or observe any Sheriff's Office vehicles in the area prior to the crash.

Mr. Roth said that the first Sheriff's Office vehicle that arrived at the crash scene had come westbound on State Road 40. *(See Tab-G for complete transcript)*

On May 12, 2011, Sergeant Timothy Morgan along with Lieutenant Paul Adkins conducted a recorded interview with Sergeant Vidal Mejias at his residence located in Deland Fl.

Sergeant Vidal Mejias

Sgt. Vidal Mejias said that on October 10, 2010 he was working as the shift supervisor for District 2. Sgt. Mejias said that he remembered Deputy Cobb responding to a disturbance at 909 South Center Street but did not remember Deputy Cobb attempting to stop a vehicle that may have left that location. Sgt. Mejias said that he did recall the crash at State Road 40 and County Road 3, stating that he responded to that location to assist. Sgt. Mejias advised that he did not recall any other deputies being present at the crash scene and that the only other law enforcement present was a Florida Highway Patrol Trooper.

Sgt. Mejias said that at no time was he aware that any deputy was alleged to be involved in a vehicle pursuit and that if there had been, he would have completed a supervisory investigation into the incident. *(See Tab-H for complete transcript)*

On May 25, 2011, Lieutenant Adkins conducted a recorded interview with Deputy Brian Cobb at the at the Sheriff's Administration Office, Deland, Florida. Also present was Sergeant T. Morgan, Deputy J. Vedder Teamster Representative and Teamsters Representative Robert Walker.

Deputy Brian Cobb

Deputy Cobb advised that on October 10, 2010, he was working patrol duties in District 2 and was assigned to work zone 21. Deputy Cobb stated that he was dispatched to 909 South Center Street in reference to a disturbance over a dog. Deputy Cobb said he was not sure where he was responding from but did so without his emergency equipment activated. Deputy Cobb advised that just prior to his arrival at the disturbance, he was told by Central Communications that some of the subjects involved in the disturbance had fled on foot. Deputy Cobb said that he observed a vehicle pass him on Center Street that he thought may be related to the call and he attempted to turn his vehicle around to conduct an investigatory stop. Deputy Cobb stated prior to turning around, he observed the vehicle turning onto Emporia Road, but when he (Deputy Cobb) later turned onto Emporia Road the vehicle was gone. Deputy Cobb advised that he notified Central of this and was back en route to 909 South Center Street. Deputy Cobb said that he was never able to get closer than one quarter mile from the vehicle and did not activate his emergency equipment at any point prior to losing sight of the vehicle.

Shortly after arriving at 909 South Center Street, Deputy Cobb advised he heard Deputy Gayer being dispatched to a crash at County Road 3 and State Road 40 and that one of the vehicles involved may possibly have been the vehicle he (Deputy Cobb) lost sight of. Deputy Cobb said he responded to the crash with his emergency equipment activated and was the first emergency vehicle to arrive on scene. Deputy Cobb said that while he was there, he assessed the scene and assisted by gathering information relative to the crash.

Deputy Cobb stated that at no time was he in pursuit of the vehicle that he observed on Center Street and ultimately lost sight of as it turned onto Emporia Road. Deputy Cobb advised that he was not able to get any closer than one quarter mile away from the vehicle, during which time he had not activated his emergency equipment, or indicated to anyone in the suspect vehicle that his intention was to stop the suspect vehicle. *(See Tab- 1 for complete transcript)*

On May 27, 2011, Lieutenant Adkins conducted a recorded interview with Deputy Wyatt Gayer at the Sheriff's Administration Office, Deland, Florida. Also present was Sergeant T. Morgan and Deputy J. Vedder.

Deputy Wyatt Gayer

Deputy Gayer advised that on October 10, 2010, he was working patrol duties in District 2 and was assigned to work zone 22. Deputy Gayer said that he heard Deputy Cobb get dispatched to the disturbance at 909 South Center Street and responded as backup. Deputy Gayer said he responded without his emergency equipment activated.

While en route, Deputy Gayer stated that he heard Deputy Cobb transmit over the radio that he (Deputy Cobb) was going to attempt to stop a vehicle that was leaving the area of the disturbance. Deputy Gayer advised that Deputy Cobb ultimately did not stop the vehicle and Deputy Cobb continued on to the disturbance.

Deputy Gayer said he was responding from the south end of Deland and had reached Highway 17 near the intersection of Spring Garden Ranch Road when he was contacted by Central Communications and advised of the crash at State Road 40 and County Road 3. Deputy Gayer said that he began driving to the location of the crash with his emergency equipment activated. Deputy Gayer said that when he reached the area of Highway 17 and Spring Garden Ranch Road, he was advised by Central Communications that one of the vehicles involved in the crash had fled southbound on County Road 3 and that it matched the description of the vehicle that may have been involved in the disturbance call at 909 South Center Street. Deputy Gayer stated that he traveled over to County Road 3 and drove northbound in an attempt to locate the suspect vehicle. Deputy Gayer said that he drove the rest of the way to the crash on County Road 3 and was unable to locate the suspect vehicle.

Deputy Gayer said when he (Deputy Gayer) arrived at the crash; Deputy Cobb was already on scene. Deputy Gayer advised he (Deputy Gayer) assisted at the crash by establishing a landing zone for Air One. Deputy Gayer advised at no time did he, or was he made aware that any deputy pursued

the vehicle involved in the accident. *(See Tab-J for complete transcript)*

Conclusion:

On June 21, 2011, this investigation was presented to the Sheriff and his administrative staff. After review, the Sheriff determined the violations of the above listed Department Standards Directives to be:

26.2.35 Failure to Follow Directive or Order - Unfounded
86-453 (13) Volusia County Merit System Rules and Regulations- Unfounded

EXHIBIT(S):

- A) Official Correspondence
- B) Notice of Claim
- C) CAD Records
- D) Transcript of 911 Calls and Radio Traffic
- E) Florida Highway Patrol Crash Report
- F) Transcript of Captain Dan Clifford
- G) Transcript of Mr. Matthew Roth
- H) Transcript of Sgt. Vidal Mejias
- I) Transcript of Deputy Brian Cobb
- J) Transcript of Deputy Wyatt Gayer
- K) Audio Disc and recordings of radio traffic and 911 calls and interviews of Captain Daniel Clifford, Matthew Roth, Sergeant Vidal Mejias, Deputy Wyatt Gayer, and Deputy Brian Cobb.

WITNESSES:

Captain Daniel Clifford
Marion County Fire Rescue

Matthew Roth
Barberville, Florida

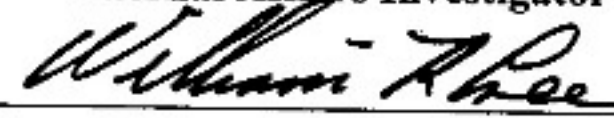
Sergeant Vidal Mejias
Volusia County Sheriff Office

Deputy Wyatt Gayer
Volusia County Sheriff's Office

Deputy Brian Cobb
Volusia County Sheriff's Office

I, the undersigned, do hereby swear, under the penalty of perjury, that, to the best of my personal knowledge, information, and belief, I have not knowingly or willfully deprived, or allowed another to deprive, the suspect of the investigation of any rights contained in ss. 112.532 and 112.533, Florida Statutes.

INVESTIGATOR:  DATE: 7/7/11
Lieutenant Paul Adkins
Internal Affairs Investigator

APPROVED BY:  DATE: 7/8/11
Chief Deputy William R. Lee
SHERIFF BEN F. JOHNSON
VOLUSIA COUNTY FLORIDA