

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

REPORT OF INVESTIGATION

REPORT NUMBER: IA- 12-018

PART I

PERIOD COVERED: 2008 to 2012
DATE REPORTED: May 24, 2012
SUBJECT(S) NAME: Lieutenant Brian Nardiello #1595
INVESTIGATING OFFICER: Investigator Glen Bennett #1452

BASIS FOR INVESTIGATION:

The basis for this investigation began with a complaint received by the Sheriff on May 24, 2012. The letter, authored by a resident of Trailwood Townhomes, contained accusations concerning the negative conduct and behavior of Lieutenant Brian Nardiello as the President of the Trailwood Townhomes Homeowner's Association Inc. (HOA). The letter outlined the possibility of unethical behavior by Lieutenant Nardiello and it centered on how he dealt with the residents within the community and the board members as the President of the HOA. It was felt by the residents that Lieutenant Nardiello was using his authority as a law enforcement officer to do as he pleased as the President of the HOA. The letter also described a questionable donation that was made by Lieutenant Nardiello in the amount of \$11,000 to the HOA. It was also alleged that Lieutenant Nardiello used HOA funds for his own personal gain.

On February 28, 2013, while searching Lieutenant Nardiello's assigned department vehicle for missing work keys, Investigator Bennett discovered two work notepads. The two notepads are commonly used by law enforcement personnel in their daily duties and are supplied by the Sheriff's Office. A brief search of one of the notepads revealed the name and driver's license number of an individual known to Investigator Bennett as a witness in Lieutenant Nardiello's internal investigation. Based on the discovery of the name and drivers license information it was believed that Lieutenant Nardiello possibly accessed the Drivers and Vehicle Information Database (DAVID) for purposes unrelated to his law enforcement duties. *(For copies of notepads see Tab- Y)*

OFFENSES:

26.2.50 Neighborhood and Domestic Disputes - Employees shall avoid official, personal involvement in neighborhood controversies, domestic or family disputes. Such disputes shall be investigated by impartial on-duty Deputies. Deputies shall not attempt to exercise authority or to make arrest in their own quarrels but shall contact a superior officer, who shall cause the matter to be investigated and action taken by impartial Deputies having no personal interest in the dispute. *(Violation subject up to a 1 day suspension.)*

26.2.108 Perjury in an Official Proceeding - Employees shall not knowingly make false statements while under oath in any court, civil or criminal, in statements made to internal affairs investigators, notaries and persons taking depositions or other testimony or any other official proceeding as defined in F.S. 837. *(Violation subject up to dismissal.)*

26.2.109 Falsification of Official Documents - Employees shall not knowingly falsify or knowingly cause another to falsify any official record or document. *(Violation subject up to dismissal.)*

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.)*

26.2.129 Misdemeanor Injurious to the Department - Department personnel shall adhere to all federal, state and local laws and shall not commit any act or crime defined as a misdemeanor, first or second degree, whether chargeable or not, which brings discredit upon the Department or otherwise impairs the operation and efficiency of the Sheriff's Office and/or which is likely to impair the ability of personnel concerned to perform assigned duties. *(Violation subject to dismissal.)*

26.2.130 Commission of Felony - Department personnel shall not commit any act or crime defined by state or federal law as a felony, whether chargeable or not. *(Violation subject to dismissal.)*

Volusia County Merit System Rule and Regulations 86-453 (3) - Willful misuse, misappropriation, negligence or destruction of county property or conversion of county property to personal use or gain. *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.*

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.*

The alleged violations are reported to have occurred between the dates of 2008 and 2012.

INVESTIGATIVE SUMMARY:

On May 24, 2012, the Internal Affairs Unit reviewed the written complaint against Lieutenant Brian Nardiello. On May 29, 2012, the complaint was taken to the Port Orange Police Department and Detective Sergeant Wayne Dorman was assigned the case. The following is a summary of Sergeant Dorman's criminal investigation to include interviews.

The allegations against Lieutenant Nardiello, who had been the President of the Trailwood Townhomes Homeowners Association (HOA) for seven years, claimed he was submitting fraudulent receipts and invoices to the HOA accounting firm so he could be reimbursed for expenses on materials/contractors for work done on his personal property. These allegations surfaced after Lieutenant Nardiello wrote a check to himself in 2008 for \$18,937.80 from the HOA financial account for what he claimed was reimbursement for HOA expenses he paid for personally. This was after he had already written one other reimbursement check during the same time period in the amount of \$6,491.25. When residents reviewed the annual report from Ledger Plus, the accounting firm responsible for the HOA, they noted that in 2011 Lieutenant Nardiello had written a personal check to the HOA in the amount of \$11,000.00 which he designated as a "gift." When Lieutenant Nardiello was questioned by residents of the HOA about his handling of the financial affairs, he allegedly became defensive. Lieutenant Nardiello then asked Ledger Plus to remove the reference to his "gift" from the annual report, and he declined to answer questions from other homeowners about the finances.

(For written complaint see Tab-C)

Rebecca Vargo

On June 1, 2012, Detective Sergeant Wayne Dorman of the Port Orange Police Department conducted a sworn recorded interview with Rebecca Vargo as part of his criminal investigation. The following is a summary of that interview:

Ms. Vargo has been a resident of the Trailwood Townhome subdivision since 1998 and is also a Certified Public Accountant. Ms. Vargo expressed her concern to Sergeant Dorman over how Lieutenant Nardiello was handling the finances as President of the Trailwood Townhome HOA.

Ms. Vargo stated she had inquired about the HOA's financial statements and requested proof or copies of receipts and/or bank statements which she said Lieutenant Nardiello refused to provide. Ms. Vargo outlined one incident back in October of 2007 when the HOA was going to have work done on the community parking lot and Lieutenant Nardiello mandated \$100.00 from each unit to pay for the work. There were 85 units in the development which added up to \$8,500.00. Ms. Vargo said that she called the company that gave the estimate and they informed her that the price was \$5,000.00 so she

was concerned where the remaining \$3,500.00 went. Ms. Vargo went on to say that Lieutenant Nardiello refused to provide her with any documentation to explain the whereabouts of the remaining \$3,500.00. That was just an example of one incident that raised Ms. Vargo's suspicions.

Sergeant Dorman asked Ms. Vargo about the \$11,000.00 gift that Lieutenant Nardiello gave to the HOA in 2010. Ms. Vargo said that during one of the HOA meetings she questioned Lieutenant Nardiello about the \$11,000.00 gift on the financial statement, and he would not give her an answer. Ms. Vargo then pointed out a letter written by Ledger Plus which stated Lieutenant Nardiello wanted the gift kept off the financial statement which according to her was against the law. The \$11,000.00 gift was given in 2010 and it was posted on that years HOA financial statement. Ledger Plus also posted it on the 2011 financial statement which Lieutenant Nardiello adamantly objected to; and according to Ledger Plus, the gift had to be posted by law. This gift became the focus of much concern from the HOA residents. *(For copy of \$11,000.00 Gift see Tab- W)*

Ms. Vargo said she managed to obtain some of the HOA financial statements from Ledger Plus before Lieutenant Nardiello ordered them not to release any financial information. The financial documents that Ms. Vargo was primarily interested in were the years 2007 thru 2010 because in 2008 Lieutenant Nardiello put an addition on his townhome. Ms. Vargo said she was interested in how he paid for the construction of that addition. Ms. Vargo added that the addition he put on his townhome was not approved by the HOA board nor did he obtain the proper permits through the City of Port Orange.

Ms. Vargo questioned why Lieutenant Nardiello paid for HOA expenses out of his own pocket and wrote a check from the HOA account to reimburse himself for those expenses only to turn around and donate \$11,000.00 back to the HOA. When Ms. Vargo spoke to a representative of Ledger Plus she was told that she could not be provided any financial information because Lieutenant Nardiello ordered them not to release the information. According to a representative from Ledger Plus, Lieutenant Nardiello as President of the HOA had the authority to not allow the release of financial information.

Ms. Vargo explained to Sergeant Dorman that her biggest concern was that if there was nothing to hide then why didn't Lieutenant Nardiello allow anyone to see the financial documents. Ms. Vargo stated, *"...he's got every one of us so darn scared of you know what he could do if we go against him"* and that's why it was so difficult for her to even write the letter to the Sheriff's Office. Ms. Vargo added that she was told by other residents in the community they were verbally threatened by Lieutenant Nardiello however she never witnessed it. Sergeant Dorman asked Ms. Vargo how these people were threatened and she replied that they did not go into great detail. Ms. Vargo went on to say, *"I know Pattie and I were a little leery coming here today, just you know he's got that position and I think that that's why he thinks he can get away with whatever he's doing or not doing because he's above everybody else."*

(For complete transcript see Tab-E)

Heidi Poteralski (1st interview)

On June 6, 2012, Detective Sergeant Wayne Dorman of the Port Orange Police Department conducted a sworn recorded interview with Heidi Poteralski as part of his criminal investigation. The following is a summary of that interview:

Ms. Poteralski was the Treasurer of the Trailwood HOA from July of 2007 until April of 2012. Ms. Poteralski described her duties with the HOA as nothing more than paying bills that came in the mail and taking the monthly maintenance fee checks to Ledger Plus, the HOA accounting firm.

Sergeant Dorman asked Ms. Poteralski what the procedure was for a resident to get repair work done on their residence and she stated the resident would either mail in a letter request and she would pass it along to Lieutenant Nardiello, who was the President of the HOA. But if the resident went directly to Lieutenant Nardiello, she would have no knowledge of the request. Ms. Poteralski said there was seldom a formal written request for work and in hindsight it should have been done that way. Ms. Poteralski went on to say that the only person she knew that would actually contract the repair work with the residents on behalf of the HOA was Lieutenant Nardiello. Sergeant Dorman then asked Ms. Poteralski if Lieutenant Nardiello was the only person responsible for hiring contractors for repairs and she replied that he was.

Sergeant Dorman asked Ms. Poteralski how the bills got paid for work that was done for the HOA and she said if the bills came in the mail then she would pay them. If it was a verbal agreement between Lieutenant Nardiello and the contractor then he would pay them. Ms. Poteralski stated that Lieutenant Nardiello would call her and advise her that work was done at a location on the property and he needed to pay them. She would then provide Lieutenant Nardiello the check for payment. Ms. Poteralski verified that each check that was written from the HOA account required two signatures; she would typically sign the blank check and give it to Lieutenant Nardiello.

Sergeant Dorman asked Ms. Poteralski if she was aware of the addition that Lieutenant Nardiello put on his townhome and she stated that she was. Ms. Poteralski remembered that the addition angered many residents because he never received permission from the HOA.

Sergeant Dorman asked Ms. Poteralski if she recalled a check being issued to Lieutenant Nardiello in December of 2008 for the amount of \$18,937 and she replied that she did remember the check. Ms. Poteralski said Lieutenant Nardiello explained to her that at the time, because of his job, it was harder for him to get hold of her since he was on night shift and she was working during the day. She went on to say that Lieutenant Nardiello explained to her that he was paying a lot of the expenses out of his pocket because it was just easier for him to pay the people out of his own account, rather than hound her for checks all the time. Ms. Poteralski said that the only reason she found out about the \$18,937 check was because she was going over the bank statements a month or so later. That was when he Lieutenant Nardiello explained to her that he had taken the check that

she had given him for somebody else and reimbursed himself the money he felt was owed to him. Ms. Poteralski explained her reaction when she discovered the \$18,937 check written out to Lieutenant Nardiello, *"...I was, I flipped out, I was extremely worried, I thought it was very unprofessional, I thought, I was very upset. But he had told me that it was because Trailwoods had owed him all this money he had to pay it out of pocket."* Ms. Poteralski asked Lieutenant Nardiello to submit receipts for all the work. He complied and they were looked over and verified through Ledger Plus.
(For copy of \$18,937.80 HOA check see Tab-S)

Sergeant Dorman asked Ms. Poteralski about the check, listed as a "gift" on the HOA account spread sheet in 2011, which was written by Lieutenant Nardiello from his personal checking account for \$11,000.00. Ms. Poteralski said, *"He (Lieutenant Nardiello) told me that was to reimburse himself for his dues. He didn't feel that he deserved his dues for the entire year so he reimbursed the association the \$11,000...."* The dues Ms. Poteralski is referring to are the monthly and annual HOA dues that each homeowner in the HOA has to pay. Based on the Trailwood Townhome HOA bylaws the President of the HOA is excluded from having to pay them.

Sergeant Dorman asked Ms. Poteralski if she had any suspicions that caused her to start taking a closer look at things, and she said, around 2010, *"her eye's were opened wider"* referring to the financial situation involving Lieutenant Nardiello. Ms. Poteralski then explained to Sergeant Dorman about issuing Lieutenant Nardiello HOA checks, *"I'm not issuing you any check so his behavior changed towards me. Fewer checks for going out. No paperwork was going from Brian to Ledger Plus anymore it was going you know it was changing that I was asking for more paperwork."* And she continued, *"To prove you know the services. And we had a long talk about him not writing the checks to himself and about that big huge check (referring to the \$18,937.80), when he submitted a years worth of receipts."* *(For complete transcript see Tab-F)*

Lieutenant Brian Nardiello (1st interview)

On July 16, 2012, Detective Sergeant Wayne Dorman with the Port Orange Police Department conducted a sworn recorded interview with Lieutenant Brian Nardiello as part of his criminal investigation. Rob Robbins, the Trailwood Townhomes Homeowners Association attorney, was also present. The following is a summary of that interview:

Lieutenant Nardiello advised he has been the President of the Trailwood Townhome HOA for approximately seven years and he resided at [REDACTED], Port Orange, FL within the Trailwood Townhome subdivision.

Sergeant Dorman began to discuss the addition Lieutenant Nardiello put on his townhome during the fall of 2008. Sergeant Dorman asked Lieutenant Nardiello if he received the proper approval from the HOA to put on the addition, Lieutenant Nardiello replied, *"I had, I know I would have done things right. I would have submitted the necessary request."* Sergeant Dorman followed by asking Lieutenant Nardiello if he followed proper HOA procedures which Lieutenant Nardiello replied, *"Yes."* Sergeant

Dorman asked if he remembered the contractor that put the addition on his townhome and Lieutenant Nardiello identified a man named Diminich, however Lieutenant Nardiello did not know the name of the construction company Diminich worked for. He believed Diminich pulled the proper permits from the City of Port Orange. Lieutenant Nardiello was asked if he recalled how he paid for the addition and he said that he could not remember. Sergeant Dorman asked Lieutenant Nardiello if he remembered how much he paid for the addition and he said he did not remember. Lieutenant Nardiello was asked if he took a loan from a bank to pay for the addition and he said that he did not. Lieutenant Nardiello was unable to remember how he paid for an addition that was put on his townhome four years prior, but he did say, *"I should have, I should have receipts."*
(For copy of City of Port Orange building permit report see Tab- T)

Sergeant Dorman began to question Lieutenant Nardiello about the reimbursement checks he had written to himself. Sergeant Dorman asked Lieutenant Nardiello if he had access to the HOA financial accounts and Lieutenant Nardiello replied that the treasurer was in possession of the HOA checkbook. At that point Rob Robbins, the HOA attorney, made the statement that it required two signatures on HOA checks, the President and Treasurer. Mr. Robbins went on to say it was common practice in HOA's where an individual would pay for expenses up front and then submit receipts for reimbursement. Lieutenant Nardiello continued by saying that people (contractors) would be beating on his door and calling him repeatedly. He would then call the Treasurer (Heidi Poteralski) and ask her for a check to pay the contractor but she would either blow him off or just not return his calls. Lieutenant Nardiello further stated, *"That's not the association's name and reputation on the line it's mine. So there were times that I would write a check out of my own personal checking account to pay bills for the homeowner's association because treasurer wasn't available to give you a check to pay for it."* Sergeant Dorman then asked Lieutenant Nardiello approximately how much money did he pay out of his own pocket that he got reimbursed for. Lieutenant Nardiello replied, *"I know it would be in the thousands."*

Sergeant Dorman began to question Lieutenant Nardiello about the financial documents that came up missing from the HOA community clubhouse. Lieutenant Nardiello mentioned that the records for 2008 came up missing from a secured closet within the clubhouse. The records were discovered missing by Heidi Poteralski, the Treasurer of the HOA. In January of 2012, the Port Orange Police Department was notified but no report was filed. Lieutenant Nardiello stated several people including a man named Jim Muller, the Secretary of the HOA, had keys to the secured closet. Lieutenant Nardiello stated he believed Mr. Muller took the documents from the closet because his wife, Patti Muller, was running against him for President of the HOA. According to Lieutenant Nardiello, when he told the Port Orange Police Officer of his suspicions, the officer told Mr. Muller and that caused a lot of issues. Lieutenant Nardiello described his relationship with Mr. Muller as one of friendship until his wife decided to run for President against him. Lieutenant Nardiello continued by saying, *"...she (Patti Muller) organized a whole group of people. This has been a nightmare ever since they organized and ran against me and my people on the board. It's been nothing but problems and hassles. It's been one problem, issue and situation after another."*

Sergeant Dorman asked Lieutenant Nardiello about the \$18,937.80 check he wrote to himself from the HOA checking account as reimbursement for work and or materials he paid for with personal funds. Lieutenant Nardiello paid HOA expenses out of his own personal account for approximately a year and then wrote the HOA check to himself. Sergeant Dorman stated it didn't make any sense to pay for HOA expenses out of your own personal financial account. Sergeant Dorman went on to say that if he (Sergeant Dorman) was the President of an HOA, it would have been the HOA's problem if they owed money to a contractor not his. Lieutenant Nardiello replied, "*Right. No your way of doing it would be a better way of doing it, a smarter way of doing it, more efficient way of doing it. I did do it out of the goodness of my heart, to pay the people (contractors) the money they were owed. Was that the smartest way to do it? No I think you're right you're older than I am, you have more experience than I am, I didn't do it the smartest way, no I didn't.*" Sergeant Dorman describes to Lieutenant Nardiello that it doesn't look good that he was paying for materials or work done in the subdivision and paying the contractor out of his own pocket and then asking for reimbursement a year or so later. Lieutenant Nardiello replied, "*I can promise you it was innocent, I've never thought anything over that I never had any incidents over it. I had the money, I did it out of the goodness of my heart, I did it to pay the people (contractors) that were beating down my doors.*" Sergeant Dorman explained to Lieutenant Nardiello that things in the HOA began to get, "...a little dicey..." around the end of 2011 and then the records from 2008 which included actual receipts from stores and contractors which Lieutenant Nardiello submitted suddenly disappeared. Those documents could have either supported Lieutenant Nardiello's statement or disproved it. Lieutenant Nardiello described his actions in paying for materials and work performed for the HOA as, "*Stupid to do it that way, was it the smartest thing looking back? No.*" and he added, "*Did I do anything illegal or wrong? No. Did I act stupidly? You could say...*"

Sergeant Dorman began to question Lieutenant Nardiello about an \$11,000.00 "gift" that he gave the HOA in 2011. Lieutenant Nardiello again began to explain how he believed he did nothing wrong in paying for HOA expenses out of his own pocket and that he felt bad for getting reimbursed so much money at one time, "*So I end up writing a check back to the association, I gifted back money that was reimbursed to me for reimbursement of receipts and contractor expenses.*" Sergeant Dorman then asked Lieutenant Nardiello, "*So you incur expenses and then you receive reimbursement from the homeowners association and then you write a check back to them?*" Lieutenant Nardiello responded by saying, "*In that particular case yes.*" When Lieutenant Nardiello was asked why would he do that, he (Lieutenant Nardiello) responded by saying he wanted to give back the money that was given to him. Sergeant Dorman asked Lieutenant Nardiello why would you give back money that was owed to you and Lieutenant Nardiello replied the HOA took such a big financial hit when they reimbursed him, he didn't feel that was right.

Lieutenant Nardiello originally claimed the \$11,000.00 "gift" was payment back to the HOA for a reimbursement check that he wrote to himself in 2010. Sergeant Dorman explained to Lieutenant Nardiello he was one heck of a philanthropist if he was giving

away \$11,000.00. Lieutenant Nardiello then explained that he doesn't give to his church or anything else. Lieutenant Nardiello stated he lived in the Trailwood community and he wanted to give back to the association. He went on to say he would rather invest in his neighborhood and community where he lived. Lieutenant Nardiello continued to say, *"If I'm going to donate money, I'm not going to donate to something I can't see it, like the Red Cross, or at work, people donate to, you guys probably have it (unintelligible), I don't make any of those types of donations."* It should be noted: In a previous Internal Affairs investigation (IA-12-012) Lieutenant Nardiello used the excuse of using a subordinate employee to help him sell his personal boat seats on duty to donate the money to the VCSO Charity Committee. He made the donation after his Internal Affairs interview several months after selling the boat seats.

Sergeant Dorman questioned Lieutenant Nardiello about whether or not his HOA dues and assessments were waived because he was the President and he replied, *"The assessment is waived for all those years and you look at all the money that you know that's, that the association is losing basically because of me. Give some back, give it back, that's what I did (referring to the \$11,000.00 "gift")."* Sergeant Dorman did the math and came up with approximately \$15,000.00 in monthly and yearly assessments waived, based on how many years Lieutenant Nardiello was President. So Sergeant Dorman explained if his (Lieutenant Nardiello) plan was to repay the dues that he was not required to pay then he would be under the amount owed by approximately \$4,000.00. Sergeant Dorman then asked Lieutenant Nardiello if he was currently paying his dues and assessments and Lieutenant Nardiello replied, *"No it's still under a waiver under the bylaws. The bylaws have never changed."* At that point Sergeant Dorman told Lieutenant Nardiello that if he just repaid some of his dues with the \$11,000.00 "gift" and he was still receiving a waiver for his dues, *"... you're gonna end up being back in the same boat again here."* Lieutenant Nardiello then tried to explain that the \$11,000.00 "gift" was not to reimburse for the waived dues and assessments, as he said it was before, rather for the reimbursement check he received. Sergeant Dorman replied by saying you were being reimbursed for your own expenses and Lieutenant Nardiello agreed. Sergeant Dorman then stated that it wasn't benefiting you at all and Lieutenant Nardiello agreed. Lieutenant Nardiello went on to clarify his financial decisions by saying: *"But in my own mind I'm also getting this waiver of \$2,200 a year which adds up to \$15,000, so now all this money that the association is providing me, is it really fair and right? Legally yes there's a waiver authorized there yes. Was it really right for me to do this? No, like sometimes the governor gives back his salary you know, the president you know, I gave back the money that was reimbursed to me."* Sergeant Dorman responded he was unaware of any politician that gave back money.

During the interview Sergeant Dorman asked Lieutenant Nardiello if he would supply the financial documents that would support his statements and he (Lieutenant Nardiello) and Mr. Robbins stated that he would. Mr. Robbins clarified earlier in the interview that Lieutenant Nardiello only had one credit card and that all the receipts and purchases that Lieutenant Nardiello had made with that card could be reproduced and provided to Sergeant Dorman. According to Mr. Robbins he was told by Lieutenant Nardiello that he only had one credit card prior to the interview with Sergeant Dorman.

Lieutenant Nardiello added the following statement towards the conclusion of the interview with Sergeant Dorman:

"I can absolutely assure you as Brian Nardiello as a Trailwood resident, as a citizen, as an officer, whatever it is, I never ever did anything I shouldn't have done, or inappropriately, or I didn't take money. I don't know where these allegations came from or where these concerns came from. I can absolutely assure you, that I didn't do anything improper or inappropriate." (For complete transcript see Tab- G)

On July 18, 2012, Sergeant Dorman received notification that Lieutenant Nardiello had retained legal counsel with Mr. Aaron Delgado. Lieutenant Nardiello never supplied the financial documents he previously agreed to do in his interview with Sergeant Dorman.

On September 15, 2012, Sergeant Dorman contacted the State Attorneys Office (SAO) and briefed them on his criminal investigation. The SAO advised Sergeant Dorman that they were not going to file criminal charges on Lieutenant Nardiello at that time.

On September 25, 2012, Sergeant Tom Tatum, of the Internal Affairs Unit, obtained copies of the interviews and reports conducted by Sergeant Dorman.

On October 4, 2012, Chief Deputy Mike Coffin assigned the above described incident to the Internal Affairs Unit for investigation. Investigator Glen Bennett served Lieutenant Brian Nardiello with the Notification of Internal Investigation (041M0095.12) and he was provided a copy of the Law Enforcement Officer Bill of Rights.
(For official correspondence see Tab- B)

On October 12, 2012, Investigator Bennett reviewed the criminal investigation conducted by the Port Orange Police Department. The City of Port Orange was contacted in reference to building permits for Lieutenant Nardiello's townhouse at [REDACTED] (Trailwood Townhomes subdivision) and his other residence located at [REDACTED] (Deep Forest Village subdivision) in Port Orange. The City of Port Orange sent Investigator Bennett an e-mail which indicated a roof was put on the [REDACTED] residence and the permit was pulled by America's Roofing Company Inc. on December 3, 2008. Reference the [REDACTED] address; the only permit pulled was on February 17, 1993 by Bayshore Electric for electrical work and Lieutenant Nardiello was not the owner of the townhome at the time.
(For POPD reports see Tab- U)

On October 16, 2012, Investigator Bennett contacted the current President of the Trailwood Townhomes HOA, Patricia Muller, and obtained permission to review all financial records at Ledger Plus. Ledger Plus is the accounting firm contracted by the HOA to handle the association's accounting matters.

Investigator Bennett learned Lieutenant Nardiello, as President of the HOA, would often pay for work performed within the Trailwoods subdivision with funds from his personal bank account. Lieutenant Nardiello would then submit receipts, invoices or his cleared checks as proof of his expenses. Ledger Plus would either issue or approve Lieutenant Nardiello a check for reimbursement. However, it was discovered Lieutenant Nardiello had written the checks to himself as reimbursement for the expenses from the Trailwood HOA account. The checks, which required two signatures, were signed by Lieutenant Nardiello and the Treasurer Heidi Poteralski.

On October 24, 2012, Investigator Bennett focused on the addition Lieutenant Nardiello put on his townhome in the fall of 2008. Investigator Bennett contacted Extreme Concrete in Edgewater, FL and obtained documents confirming the delivery of concrete to the Trailwood Townhomes subdivision. The concrete was paid for on December 1, 2008 with a check from the Trailwood Townhomes Homeowners Association for the amount of \$919.60 and in the memo section of the check it was written: Invoice 08-6315, which is the invoice number on the concrete order. The invoice indicated approximately ten yards of concrete was delivered to the Trailwood subdivision on November 20, 2008 and the contractor listed on the document was Thompson Construction. The check, #3420, was signed by Lieutenant Nardiello and the Treasurer Heidi Poteralski.

(For concrete invoices see Tab- P, for photos of addition see Tab- V)

Investigator Bennett also discovered that on December 1, 2008, Lieutenant Nardiello wrote a check for \$6,491.25 to himself for reimbursement of personal expenses he claimed he used to pay for materials/work done in the Trailwood subdivision. Lieutenant Nardiello submitted receipts, cleared personal checks and invoices to Ledger Plus to justify the reimbursement. Ledger Plus prepared an invoice which outlined the checks and invoices Lieutenant Nardiello submitted to justify the reimbursement. That invoice indicated Lieutenant Nardiello paid a man named Kenneth Pitti two checks totaling \$1,396.09. The two checks to Kenneth Pitti were written in the fall of 2008, during the same time the addition was put on Lieutenant Nardiello's townhome. Kenneth Pitti was later interviewed by Sergeant Dorman of the Port Orange Police Department on November 30, 2012 and he confirmed those two checks were payment for materials and labor for the addition he put on Lieutenant Nardiello's townhome.

(For checks see Tab- S)

On October 25, 2012, Investigator Bennett examined two personal checks Lieutenant Nardiello wrote to Home Depot on November 29, 2008, eight days after the concrete was delivered to the subdivision. An itemized receipt was obtained from Home Depot which listed numerous items consistent with new construction and confirmed by Kenneth Pitti in his interview as the materials used for Lieutenant Nardiello's addition.

(For Home Depot receipt see Tab- P)

Investigator Bennett and Sergeant Tom Tatum made contact with Allan Thompson, owner of Thompson Construction, Mr. Thompson said he did not build nor did he know anything about an addition being built in the Trailwood subdivision. He did order the concrete for Kenneth Pitti but remembered it being for sidewalk repairs. Mr. Thompson

explained he could get the concrete for a cheaper price since he had a business account with Extreme Concrete. According to Mr. Thompson, this was common practice to use his company to get concrete for people at a cheaper price. Furthermore, Mr. Thompson told investigators he never paid for the concrete and he never received a bill from Extreme Concrete.

Christian Hagel (1st interview)

On October 25, 2012, Investigator Glen Bennett conducted a sworn recorded interview with Christian Hagel the concrete truck driver for Extreme Concrete. The following is a summary of that interview:

Mr. Hagel explained he has been a concrete truck driver for Extreme Concrete for approximately five years. Mr. Hagel said he was working on November 20, 2008 and when he was shown invoice #08-6315 by Investigator Bennett he remembered making the delivery of ten yards of concrete to the Trailwood subdivision. Mr. Hagel stated the invoice explained the amount of concrete, the location of the delivery, date and time of delivery, and the contact person at the job site, which in this case was a man named Kenny with a telephone number of 386-576-4562. Mr. Hagel described when he arrived on the job site he was contacted by a man, later identified as Kenneth Pitti, who directed him to back the concrete truck behind the townhomes. Mr. Hagel was shown a picture by Investigator Bennett of the property behind Lieutenant Nardiello's residence and he quickly pointed out the gate he backed the concrete truck through. Mr. Hagel described how he dumped some of the concrete from his truck to make a slab which he later identified in another photograph as the foundation where Lieutenant Nardiello's addition was located. Mr. Hagel said he received no payment for the concrete while at the job site. *(For complete transcript see Tab-H)*

Christian Hagel (2nd interview)

On October 26, 2012, Investigator Bennett conducted a second recorded sworn interview with Christian Hagel. Approximately a half hour after the first interview on October 25th, Mr. Hagel called Investigator Bennett and advised him he had some additional information about the concrete delivery. The following is a summary of that second interview:

Mr. Hagel explained after the interview with Investigator Bennett he remembered some additional information. Mr. Hagel said after he was done pouring the slab he drove his truck out to the parking lot and poured the remaining concrete into a wheelbarrow which was used to fill in some portions of the sidewalk. Investigator Bennett asked how much concrete went into the sidewalks and Mr. Hagel stated it was approximately one yard. *(For complete transcript see Tab-H)*

On October 29, 2012, Investigator Bennett compared the building permits from the City of Port Orange to the checks written from Lieutenant Nardiello's personal checking account. According to the building records, the application date for a roof permit, at [REDACTED]

██████████, was on December 3, 2008 and on that same date Lieutenant Nardiello wrote a personal check, #2073, to HCH Construction Inc. for \$3,400.00. In the memo section of check #2073 it was written: down payment for materials for roof work. The final inspection for the roof was on December 17, 2008. On December 18, 2008, Lieutenant Nardiello wrote another personal check, #2086, to Hernan Chavarro the President of HCH Construction for \$4,170.00. In the memo section of check #2086, it was written: roof repairs-final. Those two personal checks, totaling \$7,570.00, along with an invoice were submitted by Lieutenant Nardiello to Ledger Plus to justify his reimbursement from the HOA account. Lieutenant Nardiello's house at ██████████ is not in the Trailwood subdivision. The reimbursement for the roof that was put on Lieutenant Nardiello's residence was part of the check that he wrote to himself on December 19, 2008 for the amount of \$18,937.80. The HOA check #3422 was originally voided because of lack of funds in the HOA account. However, on February 2, 2009 Lieutenant Nardiello's account showed a debt for the full amount. Lieutenant Nardiello received the full \$18,937.80 that he originally wrote the check for in December of 2008. *(For documents from City of Port Orange see Tab- T)*

On October 30, 2012, Investigator Bennett examined the personal check Lieutenant Nardiello wrote to Lowes on November 29, 2008, eight days after the concrete was delivered to the subdivision. An itemized receipt was obtained from Lowes which listed numerous items that were consistent with new construction; and it was later confirmed by Kenneth Pitti as the materials used for the addition to Lieutenant Nardiello's townhome. *(For receipt from Lowes see Tab- P)*

On November 8, 2012, Investigator Bennett's administrative investigation began to reveal a possible criminal violation. Investigator Bennett briefed Detective Sergeant Wayne Dorman of the Port Orange Police Department. The Internal Affairs Investigation was tolled and the criminal investigation was reopened by POPD. The following is a summary of the criminal investigation and interviews conducted by Sergeant Dorman:

Kenneth Pitti

On November 30, 2012, Detective Sergeant Wayne Dorman of the Port Orange Police Department conducted a sworn recorded interview with Kenneth Pitti as part of his criminal investigation. The following is a summary of that interview:

Mr. Pitti stated he knew Lieutenant Nardiello as the President of the Trailwood Townhome HOA where he did some work at Lieutenant Nardiello's request. Mr. Pitti stated he did tree trimming, fencing, and basic handyman stuff to include concrete work in the subdivision going back four or five years. Mr. Pitti explained Lieutenant Nardiello would call him when he had work and he would do it.

Sergeant Dorman asked Mr. Pitti if he recalled building an addition for Lieutenant Nardiello's townhome in 2008 and he said, "I do." Mr. Pitti explained Lieutenant Nardiello asked him for a price to put the addition on his townhome so he reached out to a buddy of his and they gave him a price. Mr. Pitti said, "But he (Lieutenant Nardiello)

got some prices, some prices were \$25,000, \$22,000, \$18,900 whatever. I did it for less than \$5,000. I did it for pretty much a day's labor for two guys pretty much so." Sergeant Dorman asked Mr. Pitti who was the friend that helped him with the addition and he replied, "It's just one guy, a friend of mine Dennis Diminnich D-I-M-I-N-N-I-C-H, Diminnich." Mr. Pitti said Dennis Diminnich was not a licensed contractor, but he worked under a general contractor's license but could not recall the name. Sergeant Dorman asked Mr. Pitti if he pulled the proper permits from the City of Port Orange and he said he personally did not. Mr. Pitti said he never saw a permit box on the job site and that usually the permit would be taped to the front window. He never saw one but stated he could be wrong. Sergeant Dorman showed Mr. Pitti the invoice from Extreme Concrete and pointed out the contact name as "Kenneth" and the phone number at the job site. Mr. Pitti agreed that the number listed on the invoice, 576-4562, was his old cell phone number. Mr. Pitti explained the day the concrete was delivered he assisted the driver of the concrete truck in backing it up behind the townhomes and directed the driver where to pour the concrete. Sergeant Dorman pointed out the name Thompson Construction was on the invoice and Mr. Pitti stated he knew Allan Thompson, the owner of Thompson Construction. Mr. Pitti went on to explain he was not present when Lieutenant Nardiello contacted Allan Thompson about the concrete; he said Allan Thompson would have been able to get the concrete at a cheaper price. Mr. Pitti believed his father may have introduced Lieutenant Nardiello to Allan Thompson because they were good friends. (For all concrete related documents see Tab-P)

Sergeant Dorman showed Mr. Pitti the checks from Lieutenant Nardiello's personal checking account and he asked him if those checks were used to pay for the addition, and he replied, "Yes sir." Mr. Pitti was then shown the itemized receipts from Lowes and Home Depot and he advised the materials listed were used for the addition to Lieutenant Nardiello's townhome. Mr. Pitti recalled going with Lieutenant Nardiello to Lowes and Home Depot to purchase the materials.

On one invoice Ledger Plus provided, it shows the items Lieutenant Nardiello submitted for reimbursement. That invoice indicates receipts from Lowes and Home Depot for \$3,069.04 and a couple lines down it showed two payments to Kenneth Pitti for the total of \$1,396.09. Mr. Pitti confirmed that the two checks written to him and the checks for Home Depot and Lowes were for work and or supplies for Lieutenant Nardiello's addition. Based on this invoice provided by Ledger Plus it indicated Lieutenant Nardiello received a reimbursement check of \$6,491.25 which included the materials and labor for the addition on his townhome along with what are believed to be legitimate expenses for the subdivision.

Mr. Pitti confirmed for Sergeant Dorman that Hernan Chavarro was the President of HCH Construction. Sergeant Dorman explained to Mr. Pitti that HCH Construction put a new roof on Lieutenant Nardiello's residence located at [REDACTED] in Port Orange, FL. However, the roof permit was pulled by America's Roofing Company Inc. out of Celebration, FL. Mr. Pitti explained the owner of America's Roofing Company Inc. was a friend of Hernan Chavarro's and America's Roofing Company Inc. pulled the permits because HCH Construction could not. Mr. Pitti said HCH Construction did some

work in the Trailwood subdivision before they put the roof on Lieutenant Nardiello's house at [REDACTED]. Mr. Pitti stated he believed Lieutenant Nardiello and Hernan Chavarro talked about doing the roof at [REDACTED] but it had nothing to do with him. At one point Sergeant Dorman showed Mr. Pitti the two checks that were written to both HCH Construction and to Hernan Chavarro and he was advised they were submitted for reimbursement by Lieutenant Nardiello and Mr. Pitti replied, "Wow." Both of those checks totaling \$7,570.00 along with an invoice from HCH Construction were submitted to Ledger Plus by Lieutenant Nardiello for reimbursement on a roof that was put on his (Lieutenant Nardiello's) residence at [REDACTED] which is not located in the Trailwood subdivision.

Sergeant Dorman was asking Mr. Pitti about a cash withdrawal that Lieutenant Nardiello had made a few days after the cement slab was poured for his addition. Sergeant Dorman wanted to know if Lieutenant Nardiello paid him (Mr. Pitti) in cash for any of the work to the addition. Mr. Pitti stated, "No. Brian never gave cash. Never gave cash. You could never get cash out of that guy" And he continued, "There ain't a contractor that worked in that place could tell you that Brian ever gave them cash because they're full of crap." (For complete transcript see Tab-1)

On December 10, 2012, Investigator Bennett served Lieutenant Nardiello an amended Notice of Internal (041M0115.12) which stated the investigation was tolled on November 8, 2012. (For official correspondence see Tab- B)

Hernan Chavarro (1st interview)

On January 4, 2013, Detective Sergeant Wayne Dorman conducted a sworn recorded interview with Hernan Chavarro, the President of HCH Construction, as part of his criminal investigation. The following is a summary of that interview:

Sergeant Dorman asked Mr. Chavarro if he did any work for "Brian Nardiello" (Lieutenant Nardiello), and he replied, "Yes I did his roof." Mr. Chavarro stated it was Kenneth Pitti that introduced him to Lieutenant Nardiello. Sergeant Dorman asked Mr. Chavarro why the permit for the roof at Lieutenant Nardiello's house says America's Roofing Company Inc. pulled it. Mr. Chavarro said he asked America's Roofing Company Inc. to pull the permit for the roof at [REDACTED] (Lieutenant Nardiello's residence) because he did not have an active license in Volusia County. According to Mr. Chavarro he pulled numerous permits for America's Roofing Company Inc. in Orange County so they pulled one for him in Port Orange. Mr. Chavarro was then shown a picture of the house at [REDACTED] but he was unable to remember if that was the house he put the roof on. Mr. Chavarro went on to say he has put roofs on numerous homes that looked very similar to the one in the picture.

(For City of Port Orange documents see Tab- T)

Sergeant Dorman showed Mr. Chavarro the two checks Lieutenant Nardiello wrote to HCH Construction on December 3, 2008 and the one to Hernan Chavarro on December 19, 2008. Mr. Chavarro agreed both checks were payment for the roof he put on the

house at [REDACTED] for Lieutenant Nardiello.

(For copies of checks to Hernan Chavarro and HCH Construction see Tab- Q, for complete transcript see Tab- J)

The two checks written to HCH Construction and Hernan Chavarro were submitted along with an invoice by Lieutenant Nardiello to Ledger Plus for reimbursement for HOA expenses which he received on February 2, 2009. Those documents were submitted along with what are believed to be legitimate expenses for supplies and/or work performed within the Trailwood subdivision. Lieutenant Nardiello wrote an HOA check to himself in the amount of \$18,937.80 claiming reimbursement and he submitted the personal checks mentioned above and the invoice to justify the reimbursement.

It should be noted that Lieutenant Nardiello did legitimately pay for materials and or work that was performed in the Trailwood subdivision. However, as explained in this report it was discovered that Lieutenant Nardiello submitted paperwork trying to justify reimbursement that included materials and work that was done on his personal townhome and second residence not located in the Trailwood subdivision.

On January 16, 2013, Sergeant Dorman completed the criminal investigation and he submitted a charging affidavit to the State Attorney's Office for review.
(For charging affidavit see Tab- U)

On January 23, 2013, the Internal Affairs Investigation was re-opened and the following is a summary of the investigation:

Debbie Hills (1st interview)

On January 23, 2012, Investigator Bennett conducted a sworn recorded interview with Debbie Hills. The following is a summary of that interview:

Ms. Hills was a resident of the Trailwood Townhome subdivision and still owns a townhome within the subdivision. Ms. Hills stated she was a member of the HOA and held the position of Treasurer in 2006 for approximately six months. Ms. Hills went on to say she was voted in as the Treasurer the same time Lieutenant Nardiello was elected President of the HOA.

Ms. Hills was asked if she ever purchased items on behalf of the HOA and then asked to get reimbursed. Ms. Hills stated she did purchase small items like stamps that she used to send out HOA mail with. Ms. Hills advised she would ask for reimbursement within a week or two of the purchases. Ms. Hills stated she had no knowledge of Lieutenant Nardiello ever writing HOA checks to himself as reimbursement for items or work done for his personal benefit.

Ms. Hills did express concern over Lieutenant Nardiello's behavior towards her and the other residents within the Trailwood subdivision. Ms. Hills explained she had two verbally hostile interactions with Lieutenant Nardiello that caused her to resign as the

Treasurer. Ms. Hills explained to Investigator Bennett she felt intimidated by Lieutenant Nardiello because he was a law enforcement officer. Ms. Hills stated she was never directly threatened by Lieutenant Nardiello but she stated it was clear he was a Deputy Sheriff.

Ms. Hills provided Investigator Bennett an audio tape that contained recordings of messages Lieutenant Nardiello left on her home answering machine from 2008. Investigator Bennett asked Ms. Hills why she kept the message recordings for so long and she replied, *"The angry content made me think these might, I don't know, be helpful when I'm found dead somewhere..."*

(For complete transcript see Tab- K)

Heidi Poteralski (2nd interview)

On January 28, 2013, Investigator Glen Bennett conducted a sworn recorded interview with Heidi Poteralski. The following is a summary of that interview:

Ms. Poteralski confirmed she was the Treasurer of the Trailwood Townhome HOA from 2007 until April of 2012. Ms. Poteralski stated she volunteered for the position and she had no accounting experience. Ms. Poteralski added Ledger Plus handled the bookkeeping for the HOA and all she did was pay the bills that came by mail.

Ms. Poteralski was asked how a resident would request repair to be performed on their townhome and she stated it was done a different way each time. Ms. Poteralski went on to say that some people would send a letter to the HOA or they may approach an HOA board member with the request. Ms. Poteralski explained the process as being an informal one. Investigator Bennett asked Ms. Poteralski if Lieutenant Nardiello was the person that hired the contractors that performed the work within the Trailwood subdivision and she said, *"Correct."* Investigator Bennett then asked Ms. Poteralski if Lieutenant Nardiello took it upon himself to hire the contractors and she replied, *"Yes."* Ms. Poteralski was asked if anybody looked to see if the contractors Lieutenant Nardiello hired were licensed and she stated she did not.

Investigator Bennett asked Ms. Poteralski if anybody would verify the work that was done by the contractor who performed the repairs and she stated she was not aware that the work was verified. Investigator Bennett asked Ms. Poteralski, when Lieutenant Nardiello submitted the receipts for materials or work performed and then wrote the checks to reimburse himself; was there anyway to verify that the materials or work was for the HOA and she replied, *"Correct, there was no way you could verify it."* Ms. Poteralski then added, *"There was, there was his check that he wrote himself, there was his checks that he paid for it and there was the materials but there was no way to determine where the materials went."* Investigator Bennett clarified by explaining to Ms. Poteralski, *"So in theory I (Investigator Bennett), could have gone to Lowe's and collected a bunch of receipts and then handed them to you. So my understanding is it was more or less on the honor system."* And Ms. Poteralski answered, *"Correct,"*

Investigator Bennett stated to Ms. Poteralski that "Brian" was a Lieutenant with the Sheriff's Office, and she replied, "Correct." Investigator Bennett asked Ms. Poteralski if she had any reason not to trust him (Lieutenant Nardiello) and she replied, "Absolutely not." Ms. Poteralski explained to Investigator Bennett, "...like you said his position in law enforcement, why would I ever question, and especially when I met Brian (Lieutenant Nardiello) he was, I believe he was undercover and then he moved up to sergeant and then moved up to lieutenant so in my eyes wow he's doing really well he's moved up quickly over he's doing a, I would never in a million years question somebody of a public authoritarian figure no."

Investigator Bennett questioned Ms. Poteralski on the two signature system the HOA had in place when it came to writing checks. Ms. Poteralski was asked if she ever pre-signed checks for Lieutenant Nardiello and she said, "Yes." Ms. Poteralski was asked how did this pre-signing of HOA checks start and she explained that one time a lawn care service requested that checks be made available to them on the day the job was done. So she (Ms. Poteralski) started to sign the checks and leave them for Lieutenant Nardiello to give to the individual for payment. Ms. Poteralski said Lieutenant Nardiello would call and tell her he needed a check for the following day to pay a worker so she would try and fill out as much of the check as she could before giving it to him. Ms. Poteralski went on to say, "In the memo spot I would try to write things but if I didn't always know I couldn't always write it. But my signature always came before his and I always tried to make sure that whatever I was, if I was gonna sign the check I would try to you know handwriting matching you know so you wouldn't ever be like well Heidi signed this but I can't tell why filled it out. It was always very clear who filled out the check." Inv. Bennett asked Ms. Poteralski if Lieutenant Nardiello ever asked her to pre-sign the checks and she stated, "Brian asked me." Ms. Poteralski believed the process of pre-signing the HOA checks was easier for Lieutenant Nardiello because of his busy work schedule. Ms. Poteralski was asked if Lieutenant Nardiello ever told her that he (Lieutenant Nardiello) could not get hold of her, and she replied she was always available. Investigator Bennett asked Ms. Poteralski if Lieutenant Nardiello ever told her he (Lieutenant Nardiello) had contractors banging down his door for payment and she replied, "No...Nothing like that at all."

Investigator Bennett showed Ms. Poteralski a copy of HOA check #3422 and asked her if that was her signature at the bottom in front of Lieutenant Nardiello's, and she stated, "Yes it is." Ms. Poteralski described how she discovered HOA check #3422 for \$18,937.80 when she was reviewing the checking account's financial statement. Ms. Poteralski stated she immediately called Lieutenant Nardiello and he produced an assortment of receipts and invoices that were reviewed by Ledger Plus. According to Ledger Plus the amounts of the receipts added up to the amount on HOA check #3422 and Ms. Poteralski added she believed he shorted himself. Investigator Bennett stated even though he provided receipts and cleared personal checks as proof of payment it still could not be verified that the materials or work was for the Trailwood subdivision and Ms. Poteralski agreed. (For HOA check #3422 see Tab- S)

Investigator Bennett said the check Lieutenant Nardiello wrote for over eighteen thousand dollars encompassed over one year's worth of items he claimed for reimbursement and Ms. Poteralski stated, "Correct, yes." Investigator Bennett went on to say, "So over a years worth of items that we truly can't even really match up. So if we took those receipts the only way to do it would be to say ok where did this bag of nails go? Walk down the street and say the nails went into that board." Ms. Poteralski replied, "Correct."

Investigator Bennett asked Ms. Poteralski if anybody had ever donated money to the HOA before and she replied, "Prior to Mr. Nardiello's? Not that I have ever been aware of no." Investigator Bennett asked Ms. Poteralski, why would Lieutenant Nardiello donate \$11,000.00 in 2010 to the HOA and she said, "You know my opinion, guilty conscience. That's my opinion." Ms. Poteralski was asked if Lieutenant Nardiello ever told her the donation was to cover his HOA dues that were waived because he was the President. Ms. Poteralski stated on the memo section of the check it read gift but verbally he told her it was for his HOA dues.

Investigator Bennett showed Ms. Poteralski HOA check #3420 written to Extreme Concrete for \$919.60 and he asked if that was her signature next to Lieutenant Nardiello's. Ms. Poteralski stated it was her signature but she did not recall seeing the check because it was so long ago. Investigator Bennett asked Ms. Poteralski if it was one of those cases where Lieutenant Nardiello was asking for a check to pay someone so she just pre-signed it and gave it to him and she replied, "Yeah." Investigator Bennett stated to Ms. Poteralski, "Ok so he(Lieutenant Nardiello) would say Heidi I need a check for contractor "A" and then you find out later wait a minute this is contractor "B" and he would explain to you that oh I had to pay "B" first before I paid "A"." Ms. Poteralski responded, "Yeah....basically yeah."

Investigator Bennett started to go over the checks with Ms. Poteralski to verify her signature or and knowledge of the checks. Ms. Poteralski was first showed HOA check #3422 which was written payable to Brian Nardiello on December 19, 2008 for the amount of \$18,937.80 and he asked her if her signature was at the bottom. Ms. Poteralski stated it was her signature and she did pre-sign the check for Lieutenant Nardiello. Investigator Bennett then showed Ms. Poteralski HOA check #3419 which was written payable to Brian Nardiello on December 1, 2008 for the amount of \$6,491.25 and he asked her if her signature was at the bottom. Ms. Poteralski stated it was her signature at the bottom of the check. Investigator Bennett showed Ms. Poteralski HOA check #3616 which was written payable to Brian Nardiello on December 30, 2010 for the amount of \$11,354.02 and he asked her if her signature was at the bottom. Ms. Poteralski once again stated it was her signature. Those three checks were written by Lieutenant Nardiello for reimbursement for work and or supplies he claimed were done for Trailwood residents. (For check #3419 and #3616 see Tab- S)

Ms. Poteralski stated the checks that were shown to her were filled out by Lieutenant Nardiello because she recognized his hand writing. Inv. Bennett asked Ms. Poteralski why she pre-signed the checks and she stated, "It would have been whatever reason he

was telling me at the time you know somebody, I need this check tomorrow I need it in the morning. They, I don't have, whatever reason he would give me at the time I didn't have a reason not to think it especially yeah he just would tell me he needed a check I would sign a check over to him I just trusted him that he was doing the right thing and paying the vendors like we were supposed to pay the vendors."

(For complete transcript see Tab- L)

On February 12, 2013, Investigator Bennett served Lieutenant Nardiello an amended Notice of Internal (041M0010.13) which placed Lieutenant Nardiello on a suspended with pay status. Lieutenant Nardiello was provided a CD that contained all documents relevant to this investigation and another copy of the Officer Bill of Rights. All Sheriff's Office equipment that was issued to Lieutenant Nardiello was collected by the Internal Affairs Unit. *(For official correspondence see Tab- B)*

On February 13, 2013 at 9:47am, Lieutenant Eagan attempted to contact Lieutenant Nardiello from his office phone extension 12118, calling [REDACTED]. Lieutenant Eagan left a voice message on Lieutenant Nardiello's answering machine with a message to call him immediately. On the same date at 10:00am, Lieutenant Eagan attempted to call Lieutenant Nardiello at his home phone number, [REDACTED]. This time Lieutenant Eagan used his department issued cell phone. Again, Lieutenant Nardiello did not answer his phone after specifically instructed by Lieutenant Eagan in the presence of Sergeant Tatum and Investigators Bennett and James Gabriel, to be available by phone and to remain at his residence between the hours of 8:00am and 4:00pm Monday thru Friday. Lieutenant Eagan left another voice message on the answering machine leaving his cell phone number for Lieutenant Nardiello to call. These same instructions to remain home and available by phone were included in bold type in Lieutenant Nardiello's amended Notice of Internal.

Later that morning on February 13, 2013, the Port Orange Police Department made contact with Lieutenant Nardiello at his residence where he was taken into custody on a felony warrant for grand theft.

Following Lieutenant Nardiello's arrest, Lieutenant Eagan received a phone call at 12:21pm from a blocked number on his department issued cell phone. The gentleman who called told Lieutenant Eagan he was Brian Nardiello's step-father and he had some questions about Lieutenant Nardiello's arrest. Lieutenant Eagan answered the gentleman's questions and concluded the phone call. Lieutenant Eagan believes the gentleman who identified himself as Lieutenant Nardiello's step-father must have listened to the voice message left on Lieutenant Nardiello's answering machine in order to obtain his unpublished cell phone number.

Lieutenant Brian Nardiello (2nd interview)

On February 18, 2013, Investigator Glen Bennett and Lieutenant Erik Eagan conducted a sworn recorded interview with Lieutenant Brian Nardiello. Also present during the interview was Mr. Aaron Delgado, counsel for Lieutenant Nardiello, and Deputy Volusia County Attorney, Mr. Charles Hargrove.

Lieutenant Nardiello advised he has been employed with the Volusia County Sheriff's Office for approximately eleven years and has held the rank of Lieutenant for the last fourteen months. Lieutenant Nardiello stated he had previous law enforcement experience when he briefly worked for the Lexington (Kentucky) Police Department for approximately five months. Lieutenant Nardiello was asked what level of education he achieved and he said he held a Masters Degree in Criminal Justice. At present time Lieutenant Nardiello said he is living at [REDACTED] Port Orange, FL which is in the Deep Forest subdivision. Prior to living at [REDACTED], Lieutenant Nardiello said he resided at [REDACTED], Port Orange, FL in the Trailwood Townhome subdivision for approximately nine years.

Investigator Bennett asked Lieutenant Nardiello if he had enough time to review the documents that were provided to him on February 12, 2013 on a CD, and he said, "I did...." Lieutenant Nardiello then advised Investigator Bennett he had trouble viewing two documents that were on the CD. Investigator Bennett located the two documents in question and they were immediately made available to him for review before further questioning.

Lieutenant Nardiello advised he was the Trailwood Townhome Homeowners Association (HOA) President for approximately seven years from 2005 until 2012 when he resigned and moved out of the subdivision. Investigator Bennett asked Lieutenant Nardiello if, as the President of the HOA, did he have a good working knowledge of the rules and regulations within the HOA and he replied, "Correct." Lieutenant Nardiello was asked how a resident of the HOA would go about obtaining permission for work to be done on their townhome and he said, "Notify the board or notify me." Lieutenant Nardiello went on to say, "There's no voting I mean if somebody needed a repair done I would have to contact a contractor and get the repair done." Investigator Bennett asked if this informal manner of how to get work done was how he and the board operated or was it the actual written procedures and he replied, "This is how me and the board always operated." Investigator Bennett then asked if a resident wanted to make cosmetic changes to their residence like adding a larger front door or putting on an addition would it require board approval and Lieutenant Nardiello stated that it would have to go through the board or a board member; it would not have to be voted on.

Lieutenant Nardiello was asked who picked the contractors that did the repairs for the residents and he stated, "Usually I did but sometimes other board members would." Investigator Bennett asked Lieutenant Nardiello if he checked to see if the contractors he hired were licensed and insured and he replied that they (contractors) would sometimes produce the documents stating they were licensed and sometimes they would not. Lieutenant Nardiello was unsure if the HOA bylaws required the contractors to be licensed and he would have to review the bylaws to be sure.

Investigator Bennett asked Lieutenant Nardiello, as President of the HOA, were his dues and assessments waived, and he replied, "Yes." Lieutenant Nardiello was asked approximately how much money was he exempt from paying the HOA as President.

Lieutenant Nardiello first advised Investigator Bennett that it was approximately \$10,800.00 and Investigator Bennett reminded Lieutenant Nardiello that in his sworn statement to Sergeant Dorman he (Lieutenant Nardiello) said it was \$2,200.00 a year and approximately \$15,000.00 in total. After doing some math with his counsel the total in which Lieutenant Nardiello finally came up with was approximately \$15,000.00.

Investigator Bennett asked Lieutenant Nardiello who was the first Treasurer when he first took office as the HOA President. Lieutenant Nardiello stated it was Debbie Hills. Lieutenant Nardiello was asked to explain why Ms. Hills resigned her position as Treasurer. Lieutenant Nardiello explained the two of them got involved in a personal relationship and it came to an end when Ms. Hills revealed to him that she had a medical condition. Lieutenant Nardiello went on to say that this medical condition was something that he wanted nothing to do with so he broke off the relationship.

Investigator Bennett asked Lieutenant Nardiello if he ever got into a verbal altercation with Ms. Hills and he stated, *"No I mean we raised our voices with each other but I wouldn't call it an altercation."* Lieutenant Nardiello said he was upset with Ms. Hills because she was continually mailing letters to HOA members requesting HOA documents and when the HOA meetings were being held. When Investigator Bennett asked why this upset him he stated it was in the manner in which she was requesting the information. Lieutenant Nardiello stated she would often come to his residence and put the requests on his door and this upset him. Investigator Bennett commented as President of the HOA he placed letters on resident's doors so what was the difference and Lieutenant Nardiello replied, *"In a context. With her it rose to the level of stalking and harassment and stopping the car short and even one time it was, was..."* Lieutenant Nardiello was asked if he ever reported Ms. Hills to the Port Orange Police Department and he stated, *"I did not speak to them about it I did not. I should have in hindsight she wants to make all these crazy statements about me in her interview I should have done something about it. I should have but I didn't."*

Investigator Bennett then asked questions about the answering machine messages Lieutenant Nardiello left on Ms. Hills answering machine. Investigator Bennett explained that during the interview with Ms. Hills, she supplied a cassette tape that contained recordings of answering machine messages from 2008 that he (Lieutenant Nardiello) left. Investigator Bennett said he asked her why she kept these messages and she stated, *"The angry content made me think that these I don't know be helpful when I'm found dead somewhere."* Lieutenant Nardiello replied by saying that he did not agree with Ms. Hills statement.

Investigator Bennett began to discuss the two signature requirements on HOA checks. Investigator Bennett asked Lieutenant Nardiello if the HOA required two signatures on their checks, and he replied, *"Yes."* Lieutenant Nardiello was asked why do you think the HOA required two signatures on the checks, and he answered, *"For checks and balances so that nothing wrong can happen?"* Investigator Bennett asked Lieutenant Nardiello why did he ask the Treasurer, Heidi Poteralski, to pre-sign checks for him, and he stated he did not remember asking her to do that; however, he did remember she asked

him to pre-sign checks for her which contradicted Ms. Poteralski's statement. Investigator Bennett then asked Lieutenant Nardiello why would he side step a security measure; the required two signatures, that was put in place to protect the resident's money and he replied, *"The two of us trusted each other. We had trust, confidence and faith in each other that we're gonna do the right thing and for the efficiency of the operation of getting people and getting bills paid we sometimes had to do that. She had, she paid expenses out of her pocket too. She bought like stamps and different supplies and stuff."* Lieutenant Nardiello did not feel asking the Treasurer of the HOA to pre-sign HOA checks was side stepping a security measure he agreed was put in place to ensure "checks and balances" and a proper expenditure. Lieutenant Nardiello claimed he asked Ms. Poteralski to pre-sign the checks because she was either out of town or unavailable; another statement that contradicted Ms. Poteralski's statement. According to Ms. Poteralski's statement she said Lieutenant Nardiello asked her to pre-sign the checks and she did so because she felt she had no reason to believe a Deputy Sheriff would misappropriate HOA funds.

Investigator Bennett asked Lieutenant Nardiello about the addition he put on his townhome in the fall of 2008. Lieutenant Nardiello was asked if he followed proper procedure with the HOA when he received approval to put the addition on and he replied, "Yes." Lieutenant Nardiello advised he received written permission from then HOA Vice President Mike Palmier. Investigator Bennett clarified that he was under the impression that certain cosmetic changes to the townhome would require a vote by the board and Lieutenant Nardiello stated it did not. Lieutenant Nardiello stated he had a copy of the written approval Mike Palmier had signed off on authorizing the addition on behalf of the HOA.

Investigator Bennett asked for a copy of that document that was signed by Mr. Palmier, which Lieutenant Nardiello did not bring with him to the interview. Lieutenant Nardiello was informed he was directed to bring any and all financial or personal documents relevant to the interview. This was the first instance which Lieutenant Nardiello failed to follow the direction of the Notice of Internal Investigation, Authored by Chief Deputy Mike Coffin (0411M0010.13). This notice outlined specific instructions to retain and to bring any and all financial or personal documents relevant to this investigation. Lieutenant Nardiello stated he was unaware the document was relevant to this Internal Investigation based on the policy violations that were outlined in the Notice of Internal. However, Lieutenant Nardiello did feel it was relevant to provide the document to the State Attorneys Office for his criminal investigation. Lieutenant Nardiello referred to his counsel, Mr. Delgado, and it was explained that a copy of the written approval was given to the State Attorney's Office. However the document was not present for this interview and Investigator Bennett had no way of validating its authenticity. Based on prior interviews with people involved in this case, no mention of this document was ever made. Lieutenant Nardiello insisted Ms. Poteralski, the HOA Treasurer at the time, was made aware of this document and according to Lieutenant Nardiello she was asked to sign it. In Ms. Poteralski's second interview with Investigator Bennett she stated she was not aware, nor did she ever see the document in question. When Ms. Poteralski was told that Lieutenant Nardiello said she knew of the document she responded, *"That's, that's*

false. No I've never seen that before. I would never even entertain such a document."

Investigator Bennett asked Lieutenant Nardiello if he recalled who the contractor was that put the addition on his home. Lieutenant Nardiello replied that it was Ken Pitti but he could not recall if he was licensed or if he worked under a licensed contractor. Lieutenant Nardiello was asked if he obtained the proper permits from the City of Port Orange for the addition and he stated that the contractor was supposed to get them and that it was not his responsibility. When Lieutenant Nardiello was advised that no permits were obtained for the addition he stated that the contractor had failed him.

Lieutenant Nardiello was asked how he paid Mr. Pitti for the addition to his townhome and he said, *"Paid him cash."* Investigator Bennett asked if he ever paid with a check and he replied, *"I don't, I don't think so. I might have."* Lieutenant Nardiello said that he paid for the addition in cash which according to him cost approximately \$5,000.00. A Review of Lieutenant Nardiello's banking history failed to show any large cash withdrawals in and around the date the addition was added. It should be noted in Ken Pitti's sworn statement taken by Sergeant Dorman, Mr. Pitti insisted that Lieutenant Nardiello never paid in cash. Mr. Pitti went so far as to say, *"No. Brian never gave cash. Never gave cash. You could never get cash out of that guy"* and he continued, *"There ain't a contractor that worked in that place could tell you that Brian ever gave them cash because they're full of crap."*

Investigator Bennett showed Lieutenant Nardiello copies of two checks from his (Lieutenant Nardiello's) personal checking account that were made payable to Mr. Pitti. Mr. Pitti, in his interview with Sergeant Dorman, stated the two checks, #2059 and #2061, were payment for material and or labor for the addition he put on Lieutenant Nardiello's townhome. Lieutenant Nardiello confirmed his signature was on the checks but could not remember if they were for payment on the addition. Lieutenant Nardiello tried to explain Mr. Pitti was mistaken and he paid him in cash. Lieutenant Nardiello added he had a receipt from Mr. Pitti that showed he paid him in cash. Once again when Investigator Bennett asked Lieutenant Nardiello for that receipt, he stated that he did not bring it with him. Lieutenant Nardiello claimed he only brought the documents he felt addressed the policy violations outlined in the Notice of Internal Investigation. Investigator Bennett asked Lieutenant Nardiello, since he was under criminal investigation if he felt the documents he failed to bring to this interview were necessary and he replied, *"I, I didn't because I was baffled when it (Notice of Internal Investigation) says neighborhood and domestic disputes and violation of County Merit Rules and regulation."* It should be noted that Lieutenant Nardiello was last served with an amended Notice of Internal Investigation (041M0010.13) on February 12, 2013 which outlined the alleged violations: Perjury in an Official Proceeding, Commission of Felony, Neighborhood and Domestic Disputes and Volusia County Merit Rules and Regulations not to mention Lieutenant Nardiello was recently arrested on a felony warrant for Grand Theft which was centered around the misappropriation of HOA funds. Lieutenant Nardiello was provided Sergeant Dorman's criminal investigative report on the CD provided to him and therefore should have known the purpose of the Internal Affairs interview.

Investigator Bennett pointed out the personal checks Lieutenant Nardiello issued to Mr. Pitti, #2059 and #2061, were submitted to Ledger Plus for reimbursement to himself. These checks were attached to an invoice which Ledger Plus had made outlining the justification for the reimbursement. Ledger Plus would not have copies of Lieutenant Nardiello's personal checks unless he provided them. Ledger Plus provided this information to Investigator Bennett as part of a packet of HOA financial information. The two checks were among other checks Lieutenant Nardiello submitted to justify a reimbursement of \$6,491.25. Lieutenant Nardiello wrote himself the reimbursement check of \$6,491.25 on December 1, 2008 at or around the time the addition was completed.

Investigator Bennett began to discuss the issue involving the concrete that was ordered and paid for using HOA check #3420. HOA check #3420 was signed by Lieutenant Nardiello and Heidi Poteralski; however, when Ms. Poteralski was questioned in her second interview in reference to her signature on the check she advised she did not remember the check and she believed she pre-signed it before it was filled out. Investigator Bennett showed Lieutenant Nardiello HOA check # 3420 and advised him the check was used to pay for the concrete for part of his addition. Lieutenant Nardiello claimed it was a bookkeeping error on Extreme Concrete's part. Lieutenant Nardiello explained it as, "...some sort of mix up or double billing or some sort of mistake..." Lieutenant Nardiello claimed he paid Allan Thompson, of Thompson Construction, cash for the concrete that was for the addition and he added he had a receipt for the transaction. When Lieutenant Nardiello was asked to provide the receipt he explained he did not have it and he gave it to his attorney who gave it to the State Attorney's Office. After great debate over the fact he was directed to bring any and all financial and personal documents to the interview, his attorney Mr. Delgado, advised he would provide the document to Investigator Bennett as soon as possible. The interview continued with Lieutenant Nardiello insisting HOA check #3420 was for the concrete that went towards the sidewalks not his addition. Investigator Bennett pointed out the memo section of HOA check #3420 clearly showed invoice number, #08-6315, which matched the invoice Extreme Concrete had on file. Lieutenant Nardiello tried to explain he paid for the concrete that went towards his addition in cash and the concrete that went into the sidewalks was paid for using HOA check #3420.

Investigator Bennett began to question Lieutenant Nardiello about the roof he put on his residence at [REDACTED] in the Deep Forest subdivision in Port Orange, FL. Investigator Bennett outlined the events involving the replacement of the roof at his [REDACTED] residence. The permit was pulled on the same date Lieutenant Nardiello wrote a personal check to HCH Construction for \$3,400.00 and the final payment of \$4,170.00 was to Hernan Chavarro, the President of HCH Construction, a day after the final inspection. Investigator Bennett informed Lieutenant Nardiello when Mr. Chavarro was shown the two personal checks in Mr. Chavarro's interview he confirmed they were payment for the roof he put on his [REDACTED] house. Lieutenant Nardiello replied, "I don't believe so." Once again Lieutenant Nardiello made reference to his attorney Mr. Delgado and asked him if he had the documents pertaining to Mr. Chavarro. Investigator Bennett then pointed out it was the fourth time during the interview he (Lieutenant

Nardiello) failed to bring all financial and personal documents pertinent to the investigation, as directed by Chief Coffin's notice.

Investigator Bennett referenced an invoice that was submitted to Ledger Plus along with his (Lieutenant Nardiello's) personal checks to justify reimbursement he received. Lieutenant Nardiello stated, *"No I don't agree. I've got a more detailed invoice as signed by him (Hernan Chavarro) and everything or I don't have it..."* Investigator Bennett stated the two checks totaling \$7,570.00 were submitted to Ledger Plus, along with other checks, to justify a reimbursement check Lieutenant Nardiello wrote to himself totaling \$18,937.80. Lieutenant Nardiello adamantly denied he submitted the checks for reimbursement and when he was asked if Ledger Plus was lying he stated, *"Either Ledger Plus or Heidi. I think there's a mix up between the stack of documents that were my own personal expenses and a stack...of documents that I...paid for association expenses."* Investigator Bennett insisted the two checks were part of the \$18,937.80 check as reimbursement and he Lieutenant Nardiello replied, *"But I also paid him cash. I have an invoice..."* This invoice, Lieutenant Nardiello claimed he processed, was pertinent to the interview and investigation as a whole. Lieutenant Nardiello failed to provide the document as directed in his Notice of Internal Investigation.

Investigator Bennett asked Lieutenant Nardiello if he did not submit his two personal checks written to Hernan Chavarro and HCH Construction for reimbursement then how did Ledger Plus get them. Lieutenant Nardiello tried to explain, *"I gave them to Heidi or Ledger Plus. And what I'm saying is there was a mix up in the documents that are compiled them saying well this is what he got reimbursed for."* Lieutenant Nardiello's answer was basically it was a mix up and he had a receipt from Hernan Chavarro that proved he paid for the roof in cash. Because Lieutenant Nardiello never brought that receipt with him to the interview it could not be reviewed at that time by Investigator Bennett to ascertain its authenticity.

Investigator Bennett continued with questions related to the checks Lieutenant Nardiello submitted to justify the reimbursement that was part of the \$18,937.80 HOA check he wrote himself. Lieutenant Nardiello was asked why Ledger Plus didn't provide this document to Investigator Bennett that he (Lieutenant Nardiello) claims was proof of payment from Hernan Chavarro for roof work within the Trailwood subdivision. Lieutenant Nardiello responded, *"Good question I don't know."* Investigator Bennett followed up by asking, *"So just so we're clear you're explaining to me that a licensed accounting firm in Port Orange did not do their job properly in providing the documents?"* Lieutenant Nardiello replied, *"Apparently if they didn't give you the documents that, all of the documents that are necessary that I that I gave them or Heidi gave them."*

Lieutenant Nardiello was questioned about the \$11,000.00 check he wrote to the HOA on February 15, 2011. Lieutenant Nardiello explained, *"Yes I gave a gift to the association..."* Investigator Bennett asked if the \$11,000.00 was for some type of reimbursement and Lieutenant Nardiello replied, *"Right I had paid a lot of money out of my pocket approximately \$11,000.00 worth of the association expenses and then got*

reimbursed for that. That I elected to give the reimbursement back to the association as a gift." Investigator Bennett clarified the question to Lieutenant Nardiello by asking him, *"Was the \$11,000 for reimbursement of the HOA dues or was it for reimbursement of a check?"* Lieutenant Nardiello replied, *"No it was for reimbursement of the check because I had been reimbursed \$11,000 by the association. I elected to go ahead and gift it back to the association."* Investigator Bennett advised Lieutenant Nardiello he was contradicting his statement to Sergeant Dorman when he was asked a similar question and he answered, *"The assessment is waived for all those years and you look at all the money that you know that's, that's the association is losing basically because of me. Give some back, give it back, that's what I did (referring to the \$11,000.00 "gift")."*

Investigator Bennett advised Lieutenant Nardiello he was served with an amended Notice of Internal of Investigation (041M0010.13) on February 12, 2012 advising him of his suspension with pay and Lieutenant Nardiello agreed. Investigator Bennett pointed out to Lieutenant Nardiello on the second page of that document in bold writing it clearly states that while on suspension with pay he was to be at his residence from 0800-1600 hours Monday thru Friday by the phone and Lieutenant Nardiello agreed. That writing in the bold type was reiterated to Lieutenant Nardiello by Lieutenant Eagan in front of Sergeant Tatum, Investigator Bennett and Investigator Gabriel. Lieutenant Nardiello was asked if he remembered being told that and he said, *"Yes."*

Investigator Bennett then asked, on February 13, 2012 at 9:47am, a day after Lieutenant Nardiello was served his Notice of Internal Investigation, Lieutenant Eagan called his home phone which he failed to answer and Lieutenant Eagan left a message for him to call him (Lieutenant Eagan) back immediately. At 10:00am that same day Lieutenant Eagan called his house phone again which he failed to answer. Lieutenant Nardiello was asked why he didn't answer the phone and he answered, *"I was sleeping."* Investigator Bennett informed Lieutenant Nardiello he was being paid by Volusia County and from 0800-1600 hours he was property of the county since he was being paid. Investigator Bennett went on to say that he Lieutenant Nardiello failed to answer the phone as directed to do so by the Chief Deputy and Lieutenant Nardiello replied, *"I mean there was no, it was unintentional there was no malice there was no, no..."*

Investigator Bennett asked Lieutenant Nardiello who Mike Palmier was and he said that Mr. Palmier was the Vice President of the HOA. Lieutenant Nardiello was asked if Mr. Palmier owed the HOA over \$7,000.00 and he responded, *"Approximately."* Lieutenant Nardiello was then asked, *"Did you as president of the HOA independently waive Mr. Palmier's dues before you left office?"* and he responded, *"His dues were waived because he provided documentation of a problem that he had."* Investigator Bennett then asked if he independently waived his (Mr. Palmier's) fees and Lieutenant Nardiello responded by saying, *"Well that was my duties and powers as the president."* Lieutenant Nardiello claimed that Mr. Palmier's past dues to the HOA were waived because some trees on his property were cut down by landscapers and this lowered the value of his property. Mr. Palmier, a realtor according to Lieutenant Nardiello, was also receiving a payment of \$1,000.00 per townhome he managed to rent out for the HOA. It should be noted the industry standard for a realtor that rents out property is approximately 10% of

the first months rent. Mr. Palmier was receiving a substantial payment well above the industry standard for brokering rental property that was owned by the HOA.

Investigator Bennett stated to Lieutenant Nardiello that he paid \$76,000 in 2003 for his townhome and then sold it for \$65,000 in 2012. In 2012 Lieutenant Nardiello was the President of the HOA and he believed in his community so much that he gave a "gift" of \$11,000 in 2011 to the HOA. Investigator Bennett asked Lieutenant Nardiello what was the hurry to move out of the Trailwood subdivision and he responded, "*I can tell you in January of 2012 is when I had enough. We, it was in like November-December 2010 is when things started getting heated up with the residents coming to the meetings.*" Lieutenant Nardiello went on about how the residents of the HOA began to harass him as the President of the HOA. Investigator Bennett advised Lieutenant Nardiello he had just gone on explaining how miserable life was as the president of the HOA for so long but he continued to run for president of the HOA. Lieutenant Nardiello then began to explain how other people kept telling him not to give up and he ran again and won even though he said he had enough. *(For complete transcript see Tab- M)*

On February 18, 2013, Investigator Bennett received an e-mail from Mr. Delgado's office which contained four attached documents. The attached documents included a copy of a hand written receipt from Allan Thompson of Thompson Construction, a proposal for a roof replacement from Hernan Chavarro, an invoice for roof leaks and repair also from Hernan Chavarro and a hand written document for what appears to be for the addition from Ken Pitti. *(For e-mail and attached documents see Tab- R)*

These documents were not made available to Investigator Bennett on the day of Lieutenant Nardiello's interview. Lieutenant Nardiello was given precise instructions in his Notice of Internal Investigation (041M0010.13) that he was served on February 12, 2013. In that Notice of Internal Investigation, it was written: **You are hereby directed to bring any and all financial or personal documents relevant to this investigation.**

Investigator Bennett examined the hand written receipt that appeared to be from Thompson Construction. The receipt, dated November 3, 2008, was hand written and indicated it was for a cash payment of \$525.00 to Thompson Construction. Allan Thompson made no mention of this receipt when Investigator Bennett and Sergeant Tatum spoke with him back on October 25, 2012. Sergeant Dorman interviewed Mr. Thompson on February 20, 2013, and he (Allan Thompson) said he did not remember issuing Lieutenant Nardiello a receipt nor did he remember getting paid in cash for the concrete. Mr. Thompson also stated he dealt with Ken Pitti when the concrete was ordered not Lieutenant Nardiello. Mr. Thompson added he didn't normally do business that way referring to the cash payment prior to the delivery of concrete and the job being completed. Based on Mr. Thompson's statement to Sergeant Dorman, the fact Lieutenant Nardiello never provided the receipt at the time of his interview and Mr. Thompson never mentioned the receipt to Investigator Bennett, the authenticity of this receipt is suspect. *(For complete transcript see Tab- N)*

On February 19, 2013, Investigator Bennett went to Extreme Concrete and made contact with the office management. Investigator Bennett was provided a full print out of all the concrete ordered by and delivered to the Trailwood subdivision. That printout, provided by Extreme Concrete's management, showed only one transaction dating back to 2008. That transaction was the order on Extreme Concrete's invoice # 08-6315 which was delivered to the Trailwood subdivision and paid for using check #3420 in the amount of \$919.60. Additionally, Extreme Concrete provided Investigator Bennett a copy of an accounts receivable document which indicated it was paid for using HOA check #3420. *(For concrete invoice and HOA check #3420 see Tab- P)*

According to the cash receipt, e-mailed to Investigator Bennett from Mr. Delgado, the concrete price per yard was \$84.09, but it was rounded up at \$85.00 per yard. The invoice supplied by Extreme Concrete added up to \$84.00 per yard which gave Thompson Construction only a \$.91 profit per yard; which according to the management at Extreme Concrete is not typically done based on the low profit margin. Lieutenant Nardiello did not dispute the fact that the concrete was delivered and some of it went into his addition, but some of the concrete did go towards the sidewalks which he claims he paid for with HOA check #3420 in the amount of \$919.60. If Lieutenant Nardiello did pay the \$525.00 cash on November 3, 2008 and then wrote the HOA check for \$919.60 on December 1, 2008 after the concrete was delivered; those two payments added up to \$1,444.60, an over payment of \$394.60 that Lieutenant Nardiello, President of the HOA, should have known about.

Additionally, if Lieutenant Nardiello did pay Mr. Thompson \$525.00 cash up front for the concrete and then paid Extreme Concrete \$919.60, what happened to the cash? Mr. Thompson stated he did not remember getting paid cash from Lieutenant Nardiello. During Mr. Thompson's informal interview with Investigator Bennett and Sergeant Tatum, he did not refute or respond to Investigator Bennett's accusation the receipt was manufactured after the investigation into Lieutenant Nardiello began. Mr. Thompson displayed physiological signs of defeat during questioning. He was cooperative but refused to answer questions about when the receipt was created or signed and if Lieutenant Nardiello asked him to fabricate the fraudulent receipt. Mr. Thompson would hang his head and remain silent when Investigator Bennett's questions focused on the authenticity of the receipt. All invoices obtained from Extreme Concrete indicate the only payment received was HOA check #3420 for \$919.60, which was the total amount to clear the account.

It should also be noted, the financial documents pertaining to the HOA for 2008 came up missing from a secured room. Lieutenant Nardiello just happened to conveniently save and produce these particular documents that are relevant to this internal investigation and his criminal investigation.

Hernan Chavarro (2nd interview)

On February 22, 2012, Investigator Bennett conducted a sworn recorded interview with Hernan Chavarro. The following is a summary of that interview:

Mr. Chavarro was shown the document Lieutenant Nardiello claimed was given to him by Mr. Chavarro. Mr. Chavarro reviewed the document and he advised Investigator Bennett he did in fact sign the document; however, Mr. Chavarro went on to say when he signed it, there was no date nor did it have Lieutenant Nardiello's signature on it. Mr. Chavarro clarified things by saying; he was approached a couple of months ago by Mr. Pitti and was asked to sign the document. According to Mr. Chavarro, Mr. Pitti said the HOA needed to clear up the finances with his account and that "Brian" (Lieutenant Nardiello) was no longer the President of the HOA. Mr. Chavarro stated he was reluctant to sign it at first but never thought it was a big issue. It should be noted Mr. Chavarro was contacted by Mr. Pitti to sign a document that according to Mr. Chavarro was altered after he reviewed and signed it. This action taken by Mr. Pitti was after Lieutenant Nardiello had knowledge of the internal and criminal investigations; therefore, this leads one to question the authenticity of the document Mr. Delgado's office provided to Investigator Bennett on behalf of Lieutenant Nardiello. Not to mention the fact that Lieutenant Nardiello contacted Mr. Pitti after being ordered not to have any contact with witnesses in the Internal Investigation. *(For complete transcript see Tab- Mc, for document see Tab- R)*

On February 26, 2013, Investigator Bennett conducted a search of Lieutenant Nardiello's assigned vehicle for a set of missing keys belonging to the County of Volusia. Lieutenant Nardiello failed to provide these keys when his Sheriff's Office issued equipment was collected on February 12, 2013. During the search for the keys, Investigator Bennett recovered two notepads that contained information that may have been obtained using a law enforcement database for personal reasons which is a violation of department policy and Florida Statute. An investigation into possible Driver and Vehicle Information Database (DAVID) violations began. *(See Part-2 for DAVID Investigation)*

On February 28, 2013, Investigator Bennett obtained Lieutenant Nardiello's DAVID records from the Department of Highway Safety and Motor Vehicles (DHSMV) from 2008 until the end of 2012. All DAVID information is private and therefore the documents pertaining to this section of the investigation were kept separate to protect personal information as per Florida State statute. *(See Part-2 for DAVID Investigation)*

On March 19, 2013, Investigator Bennett had a scheduled interview with Michael Palmier at the District-3 Office. Investigator Bennett contacted Mr. Palmier who originally agreed to an interview but later refused to cooperate when Investigator Bennett went to his residence. Investigator Bennett knocked on his door and Mr. Palmier, said through his second story window, he left a voice message on Sergeant Tatum's work phone cancelling his interview approximately one half hour before it was scheduled to begin. *(For the transcript of the message see Tab- X)*

On May 2, 2013, Investigator Bennett served Lieutenant Nardiello with an amended memorandum (041M0039.13) directing him to report to the Sheriff's Office Administrative Office's on May 9, 2013 at 0800 for an interview.
(For official correspondence see Tab- B)

On May 9, 2013, Lieutenant Nardiello and his attorney, Mr. Aaron Delgado, arrived for the interview. At approximately 0930, Mr. Delgado advised Investigator Bennett and Lieutenant Eagan that Lieutenant Nardiello would be resigning from the Sheriff's Office.

Lieutenant Nardiello was presented with an amended memorandum (041M0044.13) that immediately placed him on a suspension without pay status pending a formal letter of resignation. *(For official correspondence see Tab- B)*

Later that day Investigator Bennett received an e-mail from Mr. Delgado's office that contained Lieutenant Nardiello's letter of resignation. The letter stated that Lieutenant Nardiello's resignation was effective immediately and that he waived his right to any Personnel Board hearing. *(For resignation letter see official correspondence in Tab- B)*

CONCLUSION:

This investigation proved that Lieutenant Nardiello used the DAVID database one hundred and four (104) times to access the personal information of persons for no lawful purpose which is a violation of VCSO Department Standards 82.6 and a noncriminal infraction of Florida Statute 119.10. Of those one hundred and four unauthorized entries, Lieutenant Nardiello accessed the emergency contact information twenty (20) times without a lawful purpose which is also a violation of VCSO Department Standards 82.6 and a criminal violation of Florida Statute 119.0712.

Investigator Bennett was unable to interview Lieutenant Nardiello on the DAVID violations since he resigned on May 9, 2013, the day of his second scheduled interview. Furthermore, Lieutenant Nardiello's abrupt resignation thwarted any questioning by Investigator Bennett on the new evidence that was obtained pertaining to his financial discrepancies with the Trailwood HOA.

This Report of Incident (ROI) was broken into two parts, Part I outlining the investigation based on the written complaint. Part II which exclusively focused on Lieutenant Nardiello illegally accessing personal information in the DAVID database.

Part II of this investigation proved Lieutenant Nardiello illegally accessed the personal and emergency contact information, of persons using the DAVID database. Since accessing such information without a law enforcement purpose is a violation of Florida Statute and Federal Law, all the victims' personal information pertaining to said findings of the DAVID investigation will be held confidential.

On May 22, 2013, this investigation was presented to the Sheriff and his administrative staff. After review, the Sheriff determined the violations of the below listed Department Standards to be:

VIOLATIONS:

26.2.50	Neighborhood and Domestic Disputes	Sustained
26.2.108	Perjury in an Official Proceeding	Sustained
26.2.124	Compliance With Direct Order	Sustained
26.2.129	Misdemeanor Injurious to the Department	Sustained
26.2.130	Commission of Felony	Sustained

Volusia County Merit System Rules and Regulations 86-453 (3) Sustained

Volusia County Merit System Rules and Regulations 86-453 (13) Sustained

EXIBITS:

- A. Report Of Investigation (Part I)
- B. Official Correspondence
- C. Written Complaint
- D. Advisement Of Rights For Disciplinary Interview & Oath/Perjury Warning
- E. Official Transcript Of Rebecca Vargo
- F. Official Transcript Of Heidi Poteralski With Sergeant Dorman
- G. Official Transcript Of Lieutenant Nardiello With Sergeant Dorman
- H. Official Transcript Of Christian Hagel
- I. Official Transcript Of Kenneth Pitti With Sergeant Dorman
- J. Official Transcript Of Hernan Chavarro With Sergeant Dorman
- K. Official Transcript Of Debbie Hills
- L. Official Transcript Of Heidi Poteralski With Investigator Bennett

- M. Official Transcript Of Lieutenant Nardiello With Investigator Bennett
- Mc. Official Transcript Of Hernan Chavarro With Investigator Bennett
- N. Official Transcript Of Allan Thompson With Sergeant Dorman
- O. Official Transcript Of Answering Machine Messages On Debbie Hills
- P. Financial Documents Pertaining To Lieutenant Nardiello's Addition At [REDACTED] Port Orange, Fl
- Q. Financial Documents Pertaining To Lieutenant Nardiello's Roof At [REDACTED] Port Orange, Fl
- R. E-Mail And Documents Provided By Lieutenant Nardiello
- S. Copies Of Hoa Re-Imbursement Checks Written By Lieutenant Nardiello
- T. E-Mail And Documents Obtained From The City Of Port Orange
- U. Port Orange Police Department Report And Charging Affidavit
- V. Photographs Of Lieutenant Nardiello's Addition In Trailwood
- W. Copy Of Lieutenant Nardiello's \$11,000.00 "Gift"
- X. Official Transcript Of Mike Palmier's Answering Message
- Y. Miscellaneous Documents
- Z. Digital Media

WITNESSES (Part D):

Heidi Poteralski


Port Orange, FL 32724

Hernan Chavarro

269 Buttonwood Ct.
Winter Springs, FL 32708

Debbie Hills

903 Ashmeade Ct.
Port Orange, FL 32724

Christian Hagel

2322 Melanie Lane
New Smyrna Beach, FL 32117

Kenneth Pitti

3960 Willow Trail Run #1405
Port Orange, FL 32127

Rebecca Vargo

3960 Willow Trail Run unit D
Port Orange, FL 32127

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.

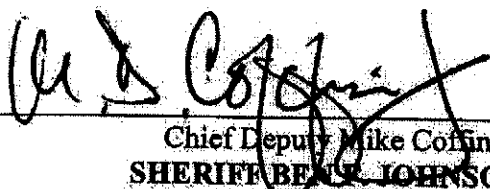
INVESTIGATOR:



Investigator Glen Bennett
Internal Affairs Investigator

DATE: 5/30/13

APPROVED BY:



Chief Deputy Mike Coffin
SHERIFF BEN E. JOHNSON
VOLUSIA COUNTY FLORIDA

DATE: 5/31/13