

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

REPORT OF INVESTIGATION

REPORT NUMBER: IA # 08-016

PERIOD COVERED: November 02, 2008

DATE REPORTED: November 03, 2008

SUBJECT(S) NAME: Sergeant Kenneth Vickery ID # 2493

INVESTIGATING OFFICER: Lieutenant R. Goggin / Sergeant Timothy Morgan

BASIS FOR INVESTIGATION:

On November 02, 2008, Sergeant Greg Miles completed a Supervisor's Inquiry (055M037.08) in reference to Sergeant Kenneth Vickery, who, while off duty, was stopped for suspicion of operating a motor vehicle while impaired and issued a written warning for failing to maintain a single lane. The inquiry stated that, during that traffic stop, Vickery was argumentative, disrespectful and displayed a poor attitude towards both Sergeant Miles and Officers of the Ponce Inlet Police Department.

OFFENSE(S):

Volusia County Merit System Rules and Regulations 86-453 (13). Any conduct, on or off duty, that reflects unfavorably on the County as an employer. *This violation may be sufficient grounds for disciplinary action ranging from oral reprimand to dismissal, depending on the seriousness of the offense and other circumstances related to the situation.*

INVESTIGATIVE SUMMARY:

On November 03, 2008, Chief William R. Lee assigned the above-described incident to the Internal Affairs Unit for investigation. This report details the investigation conducted by Lieutenant R. Goggin of the Internal Affairs Unit.

On November 03, 2008, Lieutenant Goggin and Sergeant Morgan obtained the initial supervisory inquiry completed by Sergeant G. Miles and documented in Memorandum 055M037.08. Also attached and made part of the supervisor inquiry was a copy of a Ponce Inlet Police Department event report and two audio discs, which contained conversation between Sergeant Vickery and Officer Selander during the traffic stop. The memorandum completed by Sergeant Miles detailed the following:

On November 02, 2008, Sergeant Miles was contacted by Officer Chris Selander with the Ponce Inlet Police Department. Officer Selander advised that he was conducting a traffic stop on a vehicle for suspicion of driving under the influence, and the vehicle was being operated by Sergeant Vickery. Officer Selander requested Sergeant Miles to respond to the scene due to Sergeant Vickery being argumentative during the traffic stop. Sergeant Miles advised, upon his arrival he contacted Officer Selander who advised him that Sergeant Vickery was being abusive, demeaning, and argumentative which was creating a negative atmosphere during the traffic stop.

Sergeant Miles inquiry states that upon contacting Sergeant Vickery, he (Sergeant Miles) attempted to initiate a conversation with Vickery, and Vickery stated, "*These guys are being dicks.*" Sergeant Miles advised that Sergeant Vickery had a strong odor of an alcoholic beverage emitting from his breath / person, his eyes were glazed and his speech was slurred. Sergeant Miles inquiry states that Sergeant Vickery was argumentative during their conversation, and he (Sergeant Miles) discontinued the conversation. Sergeant Miles inquiry states that he (Sergeant Miles) advised Officer Selander, "*To do whatever you have to do*".

Sergeant Miles advised that, while standing behind Officer Selander's vehicle, he observed Sergeant Vickery perform field sobriety exercises conducted by Officer Selander and that, "*It was clear from Sergeant Vickery's body language that he (Vickery) was being very uncooperative*". Sergeant Miles advised that he contacted Lieutenant Bosco in reference to Sergeant Vickery's poor demeanor toward the officers on scene. Sergeant Miles advised that Officer Selander made the decision to have a friend of Vickery pick him (Sergeant Vickery) up in lieu of an arrest.

The Ponce inlet report completed by Officer Selander stated that on November 01, 2008, he made contact with Vickery while Vickery was asleep on the beach. Selander's report stated that he contacted Vickery and a female (Settle) while it was raining. He shined his light on them and shouted three times for them to wake, before he received a response from the female (Settle). Selander's report reads that he shouted two more times to Vickery to wake up with no response, and that Settle then shook Vickery to wake him. Selander advised in his report that he could smell the odor of alcohol coming from Vickery's breath, and that Vickery was sarcastic and displayed an attitude toward him (Selander). Selander states that he advised Vickery to stay on the beach. Selander stated while checking Vickery's vehicle he observed a large bottle of an unknown type alcoholic beverage on the rear floor board.

Selander's report indicates that, after leaving the area and being back on patrol, he observed Vickery's vehicle traveling north bound on Atlantic Ave. Selander states in his report that he followed Vickery's vehicle and observed Vickery's vehicle cross the white shoulder line approx. 3

times and swerve onto the grass shoulder approx. 4 times. Officer Selander states that he initiated a traffic stop and observed Vickery's eyes to be red and glassy, and a strong odor of alcohol coming from his breath. Officer Selander indicates in his report that Vickery was argumentative, sarcastic and disrespectful during the encounter. (See tab-B)

On November 03, 2008, Lieutenant Goggin of the internal affairs unit contacted Sergeant Vickery. Lieutenant Goggin served Sergeant Vickery with a Notice of Internal Investigation and provided him with a copy of the Law Enforcement Officers Bill of Rights.

On November 06, 2008, Lieutenant Goggin and Sergeant Morgan obtained a sworn recorded statement from Officer Chris Selander at the Ponce Inlet Police department.

Officer Chris Selander

Officer Selander advised while on routine patrol he observed a gold Ford pick up truck parked in the off beach parking lot at Ocean View located in Ponce Inlet. Selander stated that he checked the vehicle and observed a bottle of alcohol inside of the truck. Selander stated that he then conducted a "property check" of the area in an attempt to locate the owner of the vehicle. Selander advised that upon checking the beach he observed a blanket on the beach. Selander advised upon approaching the blanket he observed what he thought was a person under the blanket, two pair of shoes and an unknown beverage in a cup on the ground next to the blanket. Selander stated that he identified himself as a police officer and told the people wake up. Selander stated that a female (later identified as Kristina Settle) grabbed the blanket, and he then noticed that a male was with her. Selander advised that the female woke up the male, and the male sat up, at which time he (Officer Selander) advised that he believed the male looked familiar, and asked, "Aren't you a cop with the county." Selander stated that the male, who was later identified as Sergeant Vickery, stated "yeah"! Selander then advised, "It's raining out here," at which time Sergeant Vickery advised, "Am I breaking any laws." Officer Selander advised that during the brief conversation with Sergeant Vickery, he (Officer Selander) smelled the strong odor of an alcoholic beverage emitting from his (Vickery's) breath / person. Selander stated that Sergeant Vickery was argumentative from the start of the encounter and displayed a bad attitude towards him. Selander advised he believed that both subjects had been drinking, and he told them to remain on the beach. Selander advised that he left Sergeant Vickery and Miss Settle on the beach. Selander stated that he then returned to the gold truck and checked the tag through NCIC to determine the owner, at which time he noticed the Sheriff's Office star on the back window. Selander stated that he then contacted Deputy Matt Ihnken to determine if he knew Sergeant Vickery, and to have the on duty Volusia County Sheriff's Office shift Sergeant contact him.

Officer Selander stated that approximately 40 minutes later, while he was on routine patrol, he observed the same gold pick up truck he encountered earlier traveling north bound on S. Atlantic Ave. Selander advised that he was on the phone with Sergeant Miles while following the pick up truck and stated, "The vehicle was back and forth across the line and off of the road." Selander stated that he advised Sergeant Miles of what he was observing, and then he (Officer Selander) initiated a traffic stop on the vehicle in the 4300 Block of S. Atlantic Ave.

Officer Selander advised that he contacted the driver of the vehicle (Vickery), and noticed Vickery eyes were red and that he (Vickery) smelled strongly of an alcoholic beverage. Selander stated he had Sergeant Vickery step out and away from the vehicle and explained the reason for the traffic stop. Selander stated he informed Vickery that Sergeant Miles had been notified and was enroute and, upon doing so, Vickery became argumentive. Selander advised that he activated his recorder during their conversations and recorded the conversation between himself and Sergeant Vickery during the traffic stop. Officer Selander stated that when Sergeant Miles arrived on scene he (Sergeant Miles) attempted to talk to Sergeant Vickery, but he (Officer Selander) only heard Sergeant Miles say to Sergeant Vickery, "*He was not going to be talked to that way.*" Selander stated Sergeant Miles walked away from Sergeant Vickery and then advised him (Officer Selander), "*To do what you got to do.*" Selander stated that he then asked Sergeant Vickery to perform field sobriety exercises to determine if he was fit to operate a motor vehicle. Selander stated, "*After repeatedly asking him (Sergeant Vickery) to perform field sobriety exercises, where he (Sergeant Vickery) was again argumentive, and he would come up with and make excuses.*" Selander stated, "*If you are not going to complete field sobriety exercises, I believe that I have enough probably cause to arrest you with out the field sobriety exercises. You do them or I'll arrest you.*". Officer Selander advised that he (Sergeant Vickery) did complete the field sobriety exercises. Selander stated, "*He (Sergeant Vickery) was intoxicated but he was not falling down drunk. He (Sergeant Vickery) made a few mistakes. I felt he was too intoxicated to drive, so I decided to let him call for a ride home*". Officer Selander advised that he felt the effects of the alcohol were apparent. Selander advised that Sergeant Vickery made no outright statement to him that he was under the influence of alcohol. However, he (Sergeant Vickery) advised that, "*You're not wrong I (Vickery) came to the beach to sober up and that was my intentions to stay on the beach, but we left because my girlfriend did not want to sleep on a wet blanket.*" Selander advised on the night of the incident copies of his report were provided to Lieutenant Bosco and Sergeant Miles. Selander stated that at no time was he ever pressured or influenced in any way from any member of the Sheriff's Office on his decision not to effect the arrest of Vickery. *(Complete transcript See tab-F)*

On November 07, 2008, Lieutenant Goggin and Sergeant Morgan obtained a sworn recorded statement from Deputy Mathew Ihnken at the Volusia County Sheriff's Office administration building.

Deputy Mathew Ihnken

Deputy Mathew Ihnken stated that, while on duty on November 2, 2008, sometime after 0200 hours, he received a telephone call from Officer Selander of the Ponce Inlet Police Department in reference to Sergeant Vickery. Deputy Ihnken advised that Selander advised him that he contacted Sergeant Vickery on the beach with a female, and during the contact he (Officer Selander) detected a strong odor of an alcoholic beverage emitting from Sergeant Vickery breath / person. Deputy Ihnken advised that Selander was attempting to determine if he (Deputy Ihnken) knew Sergeant Vickery, and that he (Officer Selander) wanted to speak with the on duty sergeant in reference to the contact. Deputy Ihnken stated that Selander felt as if Sergeant Vickery was intoxicated and disrespectful. Deputy Ihnken stated, while talking with Selander on the telephone, he (Officer

Selander) advised him (Deputy Ihnken) that, *“He had to go; the truck was leaving,”* referring to Sergeant Vickery’s vehicle. Deputy Ihnken advised that Selander then disconnected from him. Deputy Ihnken advised that he then made contact with Sergeant Miles via I-call and stated, *“Sarge, you need to go to Ponce Inlet’s channel and contact Officer 215. I don’t want anything else to do with it”*. Deputy Ihnken stated that he realized that Selander conducted a traffic stop on Sergeant Vickery, but he (Deputy Ihnken) did not respond to the scene of the traffic stop. Deputy Ihnken advised that he did not obtain a copy of the incident report involving Sergeant Vickery, nor did he discuss this incident with anyone outside of the agencies involved in the incident. Deputy Ihnken advised that he only spoke with Sergeant Miles and Lieutenant Bosco in reference to the incident and stated that he apologized to Lieutenant Bosco and Sergeant Miles because, *“I felt really bad that they got involved in it.”* (Complete transcript See tab-G)

On November 11, 2008, Lieutenant R. Goggin and Sergeant Morgan reviewed the entire audio recording of the traffic stop conducted by Officer Selander on Sergeant Vickery. The recording is approximately 47 minutes in length, is at times difficult to understand (transcribe) and appears to contain the voices of Officer C. Selander, Sergeant K. Vickery, Kristina Settle, and Office Gary Schleifer. The recording captures the conversations between Sealander and Vickery and records an obvious disagreement on the reason for the stop and on Vickery’s ability/condition to operate a motor vehicle. (Audio C.D See tab-D)

The audio records Sergeant Miles arrival on scene and his attempt to speak with Sergeant Vickery. Due to Officer Selander wearing the recorder and the fact that Sergeant Miles walks away from Selander to speak with Vickery, the conversation is not entirely captured. During the conversation between Miles and Vickery, Miles begins to speak in a voice tone louder than normal conversation and appears to sound frustrated with Vickery. Sergeant Miles can be heard telling Sergeant Vickery, *“I’m not going to talk to you bro! If you don’t have the common sense to understand what I’m trying to say, I’m not gonna talk to you!”*

Sergeant Vickery’s speech pattern does not appear to be impaired during the encounter, and at times he refers to Officer Selander as, “Sir.” Vickery appears to be argumentative and elusive with his answers to direct questions posed to him by Officer Selander, to wit:

When asked, “How many drinks did you have tonight Sergeant?”
Vickery replies, “Before we got in my truck, or after I got in my truck.”

When asked, “What’s that big bottle of alcohol sitting in the back seat?”
Vickery replies, “There’s two bottles of alcohol back there.”

When asked, “Did you have anything else to drink this evening?”
Vickery replies, “Earlier.”

When asked, “How much would you say you drank throughout the whole night?”
Vickery replies, after a 30 second pause, “Are we talking about grain alcohol or are we talking about.....”

Vickery is evasive and does not answer direct questions involving his consumption of alcohol but does state that he is not intoxicated. Sergeant Vickery stated to Officer Selander, *"I did my best to sober up"*.

Sergeant Vickery did use derogatory language on several occasions, but he does not appear to direct the language towards the other officers or anyone on scene.

On November 11, 2008, Lieutenant Goggin and Sergeant Morgan obtained a sworn recorded statement from Sergeant Greg Miles at the District V Office located in New Smyrna Beach.

Sergeant Greg Miles

Sergeant Miles stated that on November 02, 2008, he received a phone call from Deputy Ihnken in reference to an incident involving Sergeant Vickery. Deputy Ihnken advised him (Sergeant Miles) to contact Officer Selander with the Ponce Inlet Police Department and that, *"There is an incident involving Sergeant Vickery being intoxicated"*. Sergeant Miles advised that he contacted Officer Selander by telephone, at which time Officer Selander had just initiated the traffic stop on Sergeant Vickery's vehicle. Sergeant Miles stated that Officer Selander requested his presence at the traffic stop.

Sergeant Miles stated that he responded to the 4300 Block of S. Atlantic Ave. and spoke with Officer Selander. Sergeant Miles stated that Officer Selander advised him, *"I don't want to jam up Sergeant Vickery, but Sergeant Vickery's demeanor was presenting a negative atmosphere."* Sergeant Miles stated that he then attempted to speak to Sergeant Vickery. Sergeant Miles stated, *"Sergeant Vickery was sarcastic and argumentive about the stop"*. Sergeant Miles advised that Sergeant Vickery displayed the, *"typical stance, demeanor, and odor which was associated with being under the influence. He (Vickery) had the standard flushed eyes, slurred speech, fairly strong odor of alcohol, and was constantly moving around. He (Vickery) was intoxicated"*. Sergeant Miles advised, *"His (Vickery) actions towards me were demeaning"*. Sergeant Miles stated that he asked Sergeant Vickery three times if he had been drinking, and on the third time Sergeant Vickery replied, *"Two hours ago."* Sergeant Miles stated that Sergeant Vickery was upset over the traffic stop and believed that the stop was improper.

Sergeant Miles advised that he was present for the field sobriety exercises; however, he did not observe all of the exercises that were preformed by Sergeant Vickery. Sergeant Miles stated that he stood just behind one of the Ponce Inlet patrol vehicles while the exercises were being administered. Sergeant Miles advised, *"While he (Vickery) was dealing with the officers, he (Vickery) was shaking his head and throwing up his arms."* Sergeant Miles stated that he did observe the finger to nose exercise, however was not at a vantage point to determine if Sergeant Vickery actually touched the tip of his nose. Sergeant Miles advised during the finger to nose exercise that, *"He (Sergeant Miles) believes they (Officer Selander and Sergeant Vickery) were arguing over how*

to conduct the test". Sergeant Miles advised that he did not see any issues with the heel to toe exercise performed by Sergeant Vickery. Sergeant Miles stated he was not in a position to observe the one leg stand exercise. Sergeant Miles stated Officer Selander advised him that, "*He (Sergeant Vickery) was way off on the Horizontal Gaze Nystagmus (HGN) exercise, and he believes he (Sergeant Vickery) is intoxicated*". Sergeant Miles was asked, "*Do you believe he (Sergeant Vickery) was intoxicated.*" Sergeant Miles replied "Yes."

Sergeant Miles advised that Officer Selander elected not to arrest Sergeant Vickery for operating a motor vehicle under the influence and made the decision to let Sergeant Vickery call for a ride home. Sergeant Miles was asked, "*Did you or anyone you know attempt to influence Officer Selander's decision not to arrest Sergeant Vickery?*" Sergeant Miles stated, "*No, his first comment to me when I first talked to him, and his continuous comment to me was he did not want to arrest the guy*". Sergeant Miles advised Officer Selander that he (Sergeant Miles) was going to complete a memorandum in reference to this incident, and that he took no further action other than passing the information onto Lieutenant Bosco.

Sergeant Miles advised that, upon returning to work on Sunday November 02, 2008, he responded to Ponce Inlet Police Department with Lieutenant Bosco in order to obtain a copy of the incident report and the audio disc to complete his memorandum. *(Complete transcript see tab-II)*

On November 11, 2008, Lieutenant Goggin and Sergeant Morgan were present during the Internal Investigative interview of Ponce Inlet Officer Gary Schleifer. The Interview was conducted by Ponce Inlet Investigator Max Binz.

Officer Gary Schleifer

Officer Gary Schleifer stated on November 02, 2008, he assisted Officer Selander with a traffic stop which occurred in the 4300 Block of S. Atlantic Ave., Ponce Inlet. Officer Schleifer stated that during that stop it was apparent that Sergeant Vickery was not pleased with the fact that he was stopped by Officer Selander for suspicion of driving under the influence. Schleifer advised that he had little contact with Sergeant Vickery, and described his position at the scene as a cover officer during the encounter. Schleifer stated that, on several occasions, he (Schleifer) advised Sergeant Vickery not to escalate the situation. Schleifer advised that Sergeant Vickery would make, "*smart comments*" towards Officer Selander while answering questions. Schleifer stated that he was present when Sergeant Miles arrived on scene, but he was not involved in the conversation between Sergeant Miles and Selander.

Officer Schleifer advised that he did not observe the bottles of alcohol inside of Sergeant Vickery's vehicle, but he did hear them (Sergeant Vickery and Officer Selander) talk about the bottles. Schleifer stated that he was never really close enough to Sergeant Vickery to smell the odor of an alcoholic beverage. Schleifer stated that he has limited law enforcement experience, however he believes that Sergeant Vickery was intoxicated. Schleifer advised that, during the field sobriety exercises, Sergeant Vickery displayed a lack of attention span during the directional phase. Schleifer stated upon observing the one leg stand and finger to nose exercise that it appeared to him Sergeant

Vickery failed to touch the tip of his nose and only completed 2/3 of the one leg stand exercise. Schleifer advised that the walk and turn was the only exercises that Sergeant Vickery appeared to pass, but he (Vickery) even appeared shaky while completing that exercise. Schleifer advised that he observed Selander administer to Sergeant Vickery the Horizontal Gaze Nystagmus (HGN) exercise, but he (Officer Schleifer) is not certified in HGN nor does he (Schleifer) know what the indicators were during the Horizontal Gaze Nystagmus exercise. Schleifer stated that Officer Selander did advise him that Sergeant Vickery failed the Horizontal Gaze Nystagmus exercise. Schleifer stated that he did not complete a supplement report in reference to this incident, nor did he (Officer Schleifer) receive a copy of Officer Selander's incident report. *(Complete transcript see tab - E)*

Attempts to contact and obtain a statement from Kristina Settle were met with negative results due to Ms. Settle refusing to provide a statement in regard to this incident.

On November 20, 2008, Lieutenant Goggin and Sergeant Morgan obtained a sworn recorded statement from Sergeant Ken Vickery at the Sheriff's Administration Office in Deland. Sergeant Vickery was represented by Jeff Candage.

Sergeant Ken Vickery

Sergeant Vickery stated that on Saturday November 01, 2008, he, along with his girlfriend, (Kristina Settle) met at his residence prior to attending a party in Deltona. Before leaving his residence, Vickery poured himself one alcohol beverage (Rum and Coke) at (approx. 1800hrs.). Vickery stated that, upon leaving his residence, he carried with him and consumed that alcoholic beverage while operating his personal vehicle. He also brought with him two bottles of alcoholic beverages (Watermelon Vodka and Rum). Vickery stated he arrived at the party at (approximately 1915 hrs.) and while attending the party poured for himself and consumed (three) drinks containing alcohol. Vickery described those alcoholic beverages to be a mixture of one (1) shot of alcohol (rum) mixed with approx. 12 to 14 ounces of (coke). While at the party he also had one (1) Jell-O shot containing alcohol and consumed some food items. Vickery stated he did not finish his third alcoholic beverage and left the party at approximately 2315 hrs. He drove back to his residence in South Daytona, changed clothes, and then he drove to the Beach in Ponce Inlet. Vickery stated that at no time after leaving the party did he consume any additional alcohol.

Sergeant Vickery stated he and his girlfriend (Settle) arrived on the beach at approx. 2400 hrs. with the plan of spending the night on the beach and watching the sun rise. Vickery stated he had fallen asleep and was awakened by Settle. Vickery stated that Officer Selander identified himself as a Police Officer and made statements to him to the effect of, "*What are you guys doing down here, Wake up.*" He questioned Vickery in regard to being a deputy sheriff and then stated that maybe Vickery and Settle should leave.

Vickery stated he replied to Selander with questions regarding why he would need to leave the beach, asking if they were doing something wrong or breaking any laws. Vickery stated that the conversation ended with Selander making a statement of, "*You're a cop go ahead and stay.*"

Vickery stated that, while speaking to Selander, he (Vickery) was in a seated position, and Selander was at a distance of approx. 10 feet. Vickery described the weather conditions as windy with light rain.

Vickery stated that, approx. 45 minutes after Selander left the beach, he and Settle returned to his truck and left the beach due to the light rain and Settle being cold. Vickery stated that he began traveling north on S. Atlantic Ave., and advised that, within a very short period of time, he observed head lights approaching his vehicle from the rear at a high rate of speed. He made a comment to Settle that he was going to be stopped.

Vickery stated that he was stopped by Selander and that, while conducting the stop, Selander made statements to him, (Vickery) in regard to, *"You know why I stopped you,"* and made reference to Vickery swerving while operating his vehicle. Vickery stated he disagreed with him. Vickery stated that Selander advised that Sergeant Miles was enroute. Vickery stated that he became *"defensive"* with Selander, because of Selander's comments and felt that he was *"set up"*.

Vickery explained he felt *"set up"* because of the interaction between himself and Selander on the beach, and that, *"I was not the nicest person when I responded to him,"* on the beach.

Vickery stated the interaction between Sergeant Miles and himself was brief. Vickery advised that when Miles arrived, Miles asked what was going on. While he (Vickery) was trying to explain, Miles began to yell at him like he was a child. Vickery stated, *"He basically told me that I was being belligerent, I was being an asshole, I was being disrespectful"*.

Vickery stated he was attempting to tell Miles that, *"I want, like I said, I was feeling I was being set up and I thought that if I explained that to him, and he would somehow realize that or at least take the time to listen to me for two seconds rather than just start screaming at me, because all I did was question the fact of why I was stopped"*.

Vickery stated that he completed the field sobriety tests as instructed by Officer Selander and, that he did question Selander on the administering of the tests due to the Sheriff's Office administering the tests in a different way. Vickery stated that he does not feel he was intoxicated or impaired.

Vickery stated that he was in violation of Florida State Statute 316.1936 (Possession of Open Containers of Alcoholic Beverages in Vehicles) and also stated that he was in violation of County merit system rules and Regulations 86-453 (13) *(For complete transcript see tab - C)*

On November 24, 2008, Teamster Representative Jeff Candage provided to Lieutenant Goggin a notarized copy of a statement taken from Ms. Kristina Settle. The statement is three paragraphs in length and reads that Ms. Settle, along with Vickery, arrived at the beach and were later contacted at approx. 0115 hours by a Ponce Inlet officer telling them to wake up. Settle states that she was not asleep, and she began to "poke" Vickery to awaken him. Settle advises that the officer asked why they were on the beach, and Vickery replied that they had every right to be there. Settle states that the officer recognized Vickery and advised them to stay on the beach.

The statement further reads that, after a period of time, she and Vickery left the beach in Vickery's vehicle and were immediately stopped by the same officer from the beach. Settle states that Sergeant Miles arrived, approached Vickery and began to yell at Vickery. Settle states she could not recall the conversation between the two, however, she did hear Miles tell the Ponce Inlet Officer to do whatever you need to do before leaving. *(See tab-I)*

Conclusion:

On November 25, 2008, this investigation was presented to the Sheriff and his administrative staff. After review, the Sheriff determined the violations of the above listed Department Standards Directives to be: **Sustained.**

WITNESSES:

Officer Chris Selander
Ponce Inlet Police Department

Officer Gary Schleifer
Ponce Inlet Police Department

Sergeant Greg Miles
Volusia County Sheriff's Office

Deputy Mathew Ihnken
Volusia County Sheriff's Office

Kristina Settle
P.O. Box 9155 Daytona Beach, FL

EXHIBIT(S):

- Tab- A Official Documents
- Tab- B Memorandum 055M037.08 /Ponce Inlet report #2008110058/Transcript provided by Sergeant Vickery
- Tab- C Transcript Sergeant Vickery
- Tab- D Transcript of recorded conversation between Sergeant Vickery/Officer Selander
- Tab- E Transcript Officer Schielfer
- Tab- F Transcript Officer Selander
- Tab- G Transcript Deputy Ihnken
- Tab- H Transcript Sergeant Miles
- Tab- I Notarized statement provided by Kristina Settle
- Tab- J Audio Disc, Audio Transcripts

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

INVESTIGATOR: _____ DATE: _____
Lieutenant Robert Goggin

APPROVED BY: _____ DATE: _____

Chief Deputy William R. Lee
SHERIFF BEN F. JOHNSON
VOLUSIA COUNTY FLORIDA