

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

REPORT OF INVESTIGATION

REPORT NUMBER: IA-13-005

PERIOD COVERED: May 30, 2013
DATE REPORTED: June 3, 2013
SUBJECT(S) NAME: Sergeant Kenneth Vickery ID 2493
INVESTIGATING OFFICER: Lieutenant Erik Eagan ID 2273

BASIS FOR INVESTIGATION:

On May 30, 2013 at 1254 hours, Sergeant Kenneth Vickery reported sick to Lieutenant Eric Westfall by phone. During the phone conversation, Sergeant Vickery told his supervisor he had injured his back moving furniture and didn't feel fit to come into work the same day at 1500 hours. Lieutenant Westfall noted the exaggerated excuse for the sick call, but disregarded it based on Sergeant Vickery's prior work performance and limited sick calls.

On May 31, 2013, Lieutenant Westfall received information Sergeant Vickery had been involved in a disturbance on May 30, 2013 at 1414 hours on the Intracoastal Waterway (ICW) in Daytona Beach, FL. The incident was referenced by computer aided dispatch (CAD) call number P131501768. Based on the allegation of Sergeant Vickery being involved in an incident on the ICW while on sick leave questions the veracity of Sergeant Vickery's sick call to Lieutenant Westfall.

Lieutenant Westfall initiated a supervisor's inquiry and contacted Daytona Beach Police Officer Michael Alexander. Officer Alexander told Lieutenant Westfall he responded to 1616 S. Peninsula Dr., Daytona Beach, FL for a dispute between Nicole Swindle and a male who was not on scene when he arrived. Ms. Swindle told Officer Alexander the other party's name was Vickery and he was a deputy sheriff. Ms. Swindle reported the subject's name as Ken during her 9-1-1 call requesting assistance. Because of the serious nature of the allegation of untruthfulness and misuse of sick benefits against Sergeant Vickery, the case was referred to the Internal Affairs Unit for investigation. *(See Tab - C For CAD Call and Supervisor's Inquiry)*

OFFENSE:

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

26.2.18 Misuse of Sick Benefits - Employees shall not feign illness or injury or falsely

report themselves ill or injured or otherwise deceive any commanding officer or supervisor of the Department as to the conditions of their health for purposes of avoiding normal duties through use of accumulated sick leave. Performance of physical, income producing or recreational activities while on sick leave shall be prima facie evidence of sick leave abuse.

26.2.19 Employees are expected to remain at their place of residence while on sick leave, or to cause prompt notification of their Division or District Commander with a location at which they may be reached. Employees may, however, leave their place of residence for short durations as necessary for obtaining medical aid or assistance.

26.2.106 **Untruthfulness** - Employees shall not knowingly make false or untrue statements except as authorized in the performance of duties and as necessary to maintain covert operations during investigation of criminal activities. *(Violation subject up to dismissal.)*

INVESTIGATIVE SUMMARY:

On June 5, 2013, Chief Deputy Mike Coffin assigned the Internal Affairs Unit an investigation of an allegation against Sergeant Kenneth Vickery for being untruthful with Lieutenant Eric Westfall, the District 4 Assistant District Commander. It is also alleged Sergeant Vickery misused his sick benefits and did not remain at his residence while on sick leave. This report details the internal affairs investigation conducted by Lieutenant Erik Eagan.

On June 6, 2013, Investigator Glen Bennett served Sergeant Vickery with his Notification of Internal Investigation and he was provided a copy of the Law Enforcement Officer's Rights at his home [REDACTED]. *(See Tab - B for Official Correspondence)*

Lieutenant Eric Westfall

On June 6, 2013, Lieutenant Eagan conducted a sworn recorded interview with Lieutenant Westfall at the Internal Affairs office in DeLand, FL. The following is a summary of the interview.

Lieutenant Westfall reiterated the events outlined in his supervisor's inquiry. He believes Sergeant Vickery was untruthful with him when he reported he "tweaked his back" and did not feel fit to come into work. Lieutenant Westfall said the short reported sick call by Sergeant Vickery created a vacancy on the shift that was unable to be filled. Lieutenant Westfall called all of the opposing shift sergeants and could not fill the vacancy. The vacancy left another sergeant to supervise four additional deputies.

Lieutenant Westfall stated Sergeant Vickery called him reporting sick at 1254 hours on May 30, 2013. On the same day at 1414 hours, Ms. Swindle calls 9-1-1 reporting a dispute and assault committed by a Volusia County Sheriff named Ken. Lieutenant Westfall obtained Ken's last name Vickery from Daytona Beach Police Officer Michael

Alexander who responded to the 9-1-1 call and met with Ms. Swindle. Ms. Swindle said she, the deputy and friends were boating on the Halifax River. It was also reported the involved deputy was intoxicated.

Based on these circumstances, Lieutenant Westfall believes Sergeant Vickery was untruthful when he called in sick, misused his sick benefits, was involved in a recreational activity and the act would be prima facie evidence of sick leave abuse. *(See Tab F – For Complete Transcript of Interview)*

Nicole Swindle

On June 6, 2013, Lieutenant Eagan and Sergeant Tatum conducted a sworn recorded interview with Nicole Swindle at 186 Oleeta St., Ormond Beach, FL. The following is a summary of the interview.

Ms. Swindle told investigators she had just met Sergeant Vickery for the first time on May 30, 2013. Ms. Swindle said she and two friends, Chelsea O'Brien and her fiancé Steve Fisher met Sergeant Vickery with his boat at the Dunlawton boat ramps on the Intracoastal Waterway (ICW). She said the four of them began drinking alcoholic beverages around 0800 hours, about the time they met at the boat ramps and headed south towards disappearing island (Ponce Inlet).

Ms. Swindle said the boating event was not a double date. She explained she was just spending the day with her two friends on Sergeant Vickery's boat. She told investigators Sergeant Vickery had an "I don't fucking care" attitude throughout the day. She stated when she saw a Coast Guard boat in close proximity to their boat while traveling on the ICW; she expressed concern to Sergeant Vickery who was operating the boat with an open container of beer. She said his response was, "I don't give a shit."

Ms. Swindle said the four of them on the boat took turns riding on a raft or tube being towed by Sergeant Vickery's boat. She elaborated that Sergeant Vickery lost his bathing suit and was naked for approximately twenty minutes while riding on the float. She said Sergeant Vickery retrieved his swim suit from the water, but didn't bother to put them back on for some time. Ms. Swindle said she and Chelsea were not uncomfortable by his actions of being naked on the tube. She stated they both ignored him. According to Ms. Swindle, Sergeant Vickery put his bathing suit back on before returning to the boat from the float.

Ms. Swindle told investigators she thought her disagreement with Sergeant Vickery started when he commented about her sitting next to her friend, Chelsea's fiancé Steve. The two argued and Ms. Swindle retrieved her cell phone from the dry box under the steering wheel as Sergeant Vickery was operating the boat. After doing this, her friend Chelsea told her Sergeant Vickery threw some cigarettes at Ms. Swindle. Ms. Swindle was unaware of anything being thrown at her. When asked why Sergeant Vickery was angry with her, she replied,

"Because Steve was sitting next to me and Chelsea was sitting next to him and he was like 'don't you know they're engaged?' and I was like 'yeah like they're my friends I don't know you but I know they're engaged' and I don't know why he got so pissed off about it because it, Chelsea's my friend and she didn't say anything but he said something and I was like 'yeah I know that they're engaged' because Steve was sitting like from here to here to me..."

Ms. Swindle explained she asked Sergeant Vickery to let her off the boat. As Sergeant Vickery was approaching the shoreline, Ms. Swindle disembarked the boat. She said that was when Sergeant Vickery threatened to beat her ass. She thought the aggression could have been a result of her standoffishness to his physical advances towards her. She said, *"He was like touchy feely the whole day but I would like walk away and stuff..."*

Ms. Swindle said she was helped by the resident from 1616 S. Peninsula Dr., Daytona Beach, FL. The Good Samaritan told her to call the police and to get away from Sergeant Vickery. Ms. Swindle reported to 9-1-1 dispatchers, *"There's a Volusia County sheriff we were with and he was threatening to beat my ass so, and he's had too much to drink and the lady that lives in the house even is saying that everything is right no fuck him. So I don't feel like he's..."* The Good Samaritan was later identified as Leila Adams. Mrs. Adams stayed with Ms. Swindle until Daytona Beach Police officers arrived on scene. Sergeant Vickery left the shore prior to law enforcement arriving. (See Tab G – For Complete Transcript of Interview)

Leila Adams

On June 6, 2013, Lieutenant Eagan and Sergeant Tatum conducted a sworn recorded interview with Leila Adams at 1616 S. Peninsula Dr., Daytona Beach, FL. The following is a summary of the interview.

Mrs. Adams told investigators she heard shouting from the waterside behind her home. Her home is on the eastside of the ICW and backs up to the ICW. As the boat approached, Ms. Swindle was standing up in the boat and wanted to get out. Mrs. Adams said she heard cussing; the female identified as Ms. Swindle was upset and crying. Mrs. Adams heard Ms. Swindle shout something to the effect, "You're a Volusia County (sheriff or officer) and you shouldn't be acting this way." Mrs. Adams described the shouting as back and forth between Sergeant Vickery and Ms. Swindle, both of whom she did not know. Mrs. Adams did not see any sort of physical confrontation between Ms. Swindle and Sergeant Vickery. She added, *"I didn't want to get involved in any of that I mean I was very involved because of her so I really felt like he was pretty guilty."*

Mrs. Adams told investigators Sergeant Vickery, the other male and female on the boat left her beach before the Daytona Beach Police officers arrived at her home. During Ms. Swindle's interaction with the Daytona Beach Police officers; Mrs. Adams learned Ms. Swindle had been drinking alcoholic beverages. Other than comments by the Daytona Beach Police officers and Ms. Swindle, Mrs. Adams had no knowledge of Ms. Swindle

being under the influence of alcoholic beverages. *(See Tab H – For Complete Transcript of Interview)*

John Adams Jr.

On June 6, 2013, Lieutenant Eagan and Sergeant Tatum conducted a sworn recorded interview with John Adams Jr. at 1616 S. Peninsula Dr., Daytona Beach, FL. The following is a summary of the interview.

Mr. Adams is Mrs. Adams' husband and he told investigators he was not outside when Ms. Swindle arrived on his beach located behind his home. He did note there were two couples on the boat and they beached the boat adjacent to his dock that extends perpendicular from the shoreline. Mr. Adams' recollection of the incident was similar to his wife's. He and his wife were not sure if Sergeant Vickery or Ms. Swindle had been drinking. Mr. Adams said they were never closer than ten yards from Sergeant Vickery. *(See Tab-I For Complete Transcript of Interview)*

Chelsea O'Brien

On June 13, 2013, Lieutenant Eagan and Investigator Bennett conducted a sworn recorded interview with Chelsea O'Brien at 5987 Heron Pond Dr. in Port Orange, FL. The following is a summary of the interview.

Ms. O'Brien told investigators she is friends with Sergeant Vickery and has known him for approximately two months. She explained her fiancé Steve Fisher, Sergeant Vickery and her hatched a plan on May 30, 2013 around 0300 hours to go boating later that morning. Ms. O'Brien said she contacted a Facebook friend, Nicole "Nikki" Swindle, whom they had never met and invited her to join the three of them on the boating trip.

Ms. O'Brien stated when she and her fiancé picked up Ms. Swindle from her home, she was already drunk. Apparently Ms. Swindle had been drinking all night and continued to drink while the four of them went boating on the ICW. While out on the boat; the group went to disappearing island, tubing on the ICW and driving north on the ICW towards Daytona Beach, FL.

According to Ms. O'Brien, she and Ms. Swindle rode on a float towed behind the boat. She called the event tubing and said all four of them participated being pulled behind the boat on the float. She told investigators Sergeant Vickery rode on the float for a short time. She estimated his ride time was three minutes and she advised she was operating the boat while he was being towed. Ms. O'Brien said Sergeant Vickery lost his bathing suit while being towed behind the boat and quit being towed after that happened. She said Sergeant Vickery did not continue to ride on the tow float naked. She told investigators Sergeant Vickery was not feeling well while he was out on the boat. When questioned about him feeling poorly, Ms. O'Brien alluded to Sergeant Vickery being upset over his recent breakup with his girlfriend and later suggested Sergeant Vickery

may have been ill with a stomach virus. Ms. O'Brien had three different explanations why Sergeant Vickery was not feeling well.

Lieutenant Eagan asked Ms. O'Brien how an argument began between Sergeant Vickery and Ms. Swindle. Ms. O'Brien said Ms. Swindle and her fiancé continued to consume alcoholic beverages throughout the day. She explained the alcohol consumption reached a point where Ms. Swindle was, "...*just going crazy day drinking...just going crazy on the boat.*" Ms. O'Brien described Ms. Swindle as being loud and yelling, "*woo Spring Break 2013!*" She said Sergeant Vickery and she asked Ms. Swindle to tone it down.

According to Ms. O'Brien, Ms. Swindle was upset Sergeant Vickery asked her to calm down and requested to be dropped off the boat. As Sergeant Vickery steered the boat towards the eastern shoreline, Ms. Swindle jumped off the boat in shallow water and made her way to the rear yard of 1616 S. Peninsula Dr., Daytona Beach, FL. There Ms. O'Brien called 9-1-1 and alleged Sergeant Vickery threatened her.

Ms. O'Brien told investigators Ms. Swindle was not making sense and had no idea Sergeant Vickery was a law enforcement officer until Ms. O'Brien told her while she was on the phone with the 9-1-1 dispatcher. Ms. Swindle used expletives expressing she did not care who Sergeant Vickery was. Ms. O'Brien said Sergeant Vickery, her fiancé and she left in the boat because they did not want to deal with Ms. Swindle any further. Ms. O'Brien was unsure if the Daytona Beach Police officers arrived at the home prior to them leaving on the boat. She said in hind sight they should have stayed and spoken with police.

When questioned about Sergeant Vickery threatening Ms. Swindle; Ms. O'Brien told investigators Ms. Swindle threatened Sergeant Vickery. Ms. O'Brien could not recite or recall any threatening phrases from Ms. Swindle towards Sergeant Vickery. She said Ms. Swindle asked Sergeant Vickery, "*You're threatening to you know beat my ass, you're gonna hit a woman?*" Ms. O'Brien described Ms. Swindle's comments as coming out of left field.

Ms. O'Brien said once they returned to the Dunlawton boat ramps, she and her fiancé drove back to S. Peninsula and picked up Ms. Swindle from the Daytona Beach Police officers. She said the officers described Ms. Swindle as drunk and threatened to take her to the drunk tank to sleep it off.

Ms. O'Brien told investigators Sergeant Vickery had told her fiancé he had called in sick to work that day. When asked if Sergeant Vickery was engaged in recreational activity, she said, "*No...No like I said he shouldn't have been on the boat.*" It was obvious Ms. O'Brien was trying to minimize the events of the day and Sergeant Vickery calling in sick while boating on the ICW.

Ms. O'Brien had been in contact with Sergeant Vickery the day prior to Lieutenant Eagan's interview with her. Sergeant Vickery received his notice of Internal Investigation on June 6, 2013 ordering him in bold lettering, "**Be advised that you are**

prohibited from contacting the complainant and/or witnesses relative to this investigation.” However; he was talking to Ms. O’Brien as late as June 12, 2013 about details of the investigation. According to Ms. O’Brien, she texted Sergeant Vickery and complained about her feet hurting because she is a waitress on her feet all day. Sergeant Vickery responded that the past couple of weeks his ribs have been hurting.

When first questioned, Ms. O’Brien told investigators Sergeant Vickery had not been feeling well all day while out on the boat and may have had a stomach virus. She was later questioned if Sergeant Vickery had any physical injuries and she told investigators he was complaining about his ribs hurting. When asked if he complained about his back, arm, wrist or leg; Ms. O’Brien told investigators Sergeant Vickery complained his shoulder hurt at her engagement party on June 2, 2013. Sergeant Vickery declined playing beer pong with Ms. O’Brien’s sister because his shoulder hurt. Ms. O’Brien’s explanation about Sergeant Vickery not feeling well or being injured appeared to be overstated. *(See Tab J – For Complete Transcript of Interview)*

Steven Fisher

On June 13, 2013, Lieutenant Eagan and Investigator Bennett conducted a sworn recorded interview with Steven Fisher at 5987 Heron Pond Dr. in Port Orange, FL. The following is a summary of the interview.

Mr. Fisher told investigators he met Sergeant Vickery approximately one month ago at the Roadside (Tavern), which is located in Port Orange, FL. He said they were playing pool (billiards) and became friends. He stated he learned Sergeant Vickery worked for the Volusia County Sheriff’s Office a couple of days after meeting him.

Mr. Fisher said Sergeant Vickery met him at a friend’s house in Samsula around 0330 hours on May 30, 2013. He thought Sergeant Vickery had just gotten off from working around 0300 hours. Mr. Fisher told investigators Sergeant Vickery did not drink any alcoholic beverages in the early morning hours. He said his fiancé, Sergeant Vickery and he decided in the early morning hours of May 30, 2013, to go boating later the same morning. He told investigators he had been drinking all night and continued drinking through the morning hours. He explained his memory was foggy on details because he was intoxicated. Mr. Fisher did not remember whose idea it was to go boating.

Mr. Fisher went so far as telling investigators he drank about 14 beers and four or five shots of Fireball Cinnamon Whisky while on the boat. He said Ms. Swindle consumed as much alcoholic beverages as he did and the two were intoxicated. He didn’t think his fiancé, Ms. O’Brien had been drinking. Mr. Fisher initially denied Sergeant Vickery had consumed any alcoholic beverages and later hedged the question stating, *“Not to my recollection but like I said I had been drinking quite a bit myself so.”*

Mr. Fisher stated he believes the argument between Sergeant Vickery and Ms. Swindle began when Sergeant Vickery made a comment to her, *“You know his fiancé’s right here, you know maybe you should stop touching him. He told her you know quit touching me*

(Mr. Fisher).” Mr. Fisher thought Ms. Swindle being intoxicated and being called out inappropriately touching him led to the disagreement. He described Ms. Swindle as flipping out. Contrary to Ms. O’Brien’s description, Mr. Fisher said, neither Ms. Swindle nor Sergeant Vickery threatened one another. *(See Tab K – For Complete Transcript of Interview)*

Chelsea O’Brien (2nd Interview)

On July 5, 2013, Sergeant Tatum and Investigator Bennett conducted a sworn recorded interview with Chelsea O’Brien at the Port Orange Police Department in Port Orange, FL. The following is a summary of the interview.

Ms. O’Brien was re-interviewed because of the discrepancies between her statement and Ms. Swindles. Ms. Swindle provided Lieutenant Eagan photographic evidence from her cellular smart phone of Sergeant Vickery consuming alcoholic beverages on his boat on May 30, 2013. The new evidence questioned Ms. O’Brien’s veracity regarding her sworn testimony to internal affairs investigators on June 13, 2013.

Ms. O’Brien did a complete about face and immediately told investigators Sergeant Vickery was consuming alcoholic beverages the morning of and later in the day on May 30, 2013. She went so far as telling investigators Sergeant Vickery brought beer with him to their mutual friend’s house after work around 0330 hours on May 30, 2013. Ms. O’Brien quickly recanted, saying Sergeant Vickery did not bring beer with him in the same sentence as her admission.

Ms. O’Brien told investigators she did not have any conversation with Sergeant Vickery about how to answer questions during her interview with investigators. She said during the first interview with investigators, she tried to downplay Sergeant Vickery’s consumption of alcoholic beverages so he wouldn’t get into trouble at work.

Ms. Obrien explained to investigators Sergeant Vickery continued to drink alcoholic beverages on his boat later that morning. She said Sergeant Vickery brought beer with him on his boat. Ms. O’Brien described Sergeant Vickery as not drinking heavily on the boat. She told investigators Sergeant Vickery did not consume any of the Fireball Cinnamon Whiskey. When confronted with a photograph of Sergeant Vickery taking a swig from the whiskey bottle while sitting on his boat, Ms. O’Brien admitted Sergeant Vickery must have drank the whiskey without her seeing it. She gave the excuse it must have been while she was swimming or when she was sleeping on the beach.

Ms. O’Brien authenticated the photograph of Sergeant Vickery holding a 12 oz. can of Bud Light while sitting behind the helm of his boat. She went so far as saying, Sergeant Vickery was a Miller drinker, but she and Mr. Fisher had brought Bud Light on the boat that day.

Ms. O’Brien was questioned about Sergeant Vickery riding on the tubing device behind the boat and losing his bathing suit. Ms. O’Brien said, Sergeant Vickery was only riding

for five or six seconds, ten seconds at the most while naked on the float.

When questioned about Sergeant Vickery using vulgarities while arguing with Ms. Swindle, Ms. O'Brien steadfast in her testimony. She told investigators Sergeant Vickery was calm and polite when dealing with Ms. Swindle. When challenged by investigators, Ms. O'Brien suggested her ex-fiancé was the person who was cursing and yelling at her and Ms. Swindle. When challenged again about the vulgar subject's physical description from the independent witness, she acquiesced and said, "That was obviously Ken." Ms. O'Brien continued denying Sergeant Vickery used profanity.

When questioned why Sergeant Vickery called in sick to work, she responded, "*He was I, heartsick I don't, I mean like I said the only conclusion I can come up with is because of his rib and because the break up the night before.*" Although Ms. O'Brien agreed with investigators, if Sergeant Vickery were able to load and unload the boat, go tubing and spend the day on the river, he would have been physically capable of doing his job. She also agreed Sergeant Vickery's activities on May 30, 2013 were considered recreational activity. She added, "*I think this whole day though was just a lapse of judgment.*"

Steven Fisher (2nd Interview)

On July 10, 2013, Investigator Bennett conducted a sworn recorded interview with Steven Fisher by phone. The following is a summary of the interview.

Mr. Fisher reiterated to Investigator Bennett he had consumed a large amount of alcoholic beverages on May 30, 2013 and his recollection of events was fuzzy. Mr. Fisher recalled Sergeant Vickery bringing beer with him when he met them at the third party friend's (Kirk Ferguson) house in the early morning hours of May 30, 2013. He recalled the event because he and his friend Kirk had run out of beer. Mr. Fisher quickly clarified that he and Ms. O'Brien were not together any longer and they had broken off their engagement.

Mr. Fisher said Sergeant Vickery brought beer in a cooler with him on the boat the same morning. He was unsure if Sergeant Vickery had any alcoholic beverages to drink, just that he brought beer to Kirk's house. Mr. Fisher continued by saying, he thought Sergeant Vickery had a couple beers on the boat, but he was not certain.

When asked how long Sergeant Vickery had been riding on the tow float, Mr. Fisher replied, "*Goodness could have been a couple minutes could have been a minute and a half could have been an hour...*" Mr. Fisher also admitted to driving the boat as Sergeant Vickery was being towed. He regretted the decision to operate the boat because he was intoxicated. He stated, "*You know I was intoxicated, drunk people don't make smart decisions.*"

Mr. Fisher thought Sergeant Vickery had called in sick to work because of his ribs or side hurting. He told Investigator Bennett he did not discuss the matter much with Sergeant Vickery. Mr. Fisher added, "*He was sitting down on the boat I mean it looked like his*

side was bothering him. Probably getting on the tube wasn't the best friggin idea." Mr. Fisher thought Sergeant Vickery was physically able to go to work, but thought his mental state because of his recent relationship breakup was affecting him. He thought Sergeant Vickery's activities on May 30, 2013 were recreational.

Nicole Swindle (2nd Interview)

On July 17, 2013, Lieutenant Eagan conducted a sworn recorded interview with Nicole Swindle by phone. The following is a summary of the interview.

Ms. Swindle was questioned about the two photographs of her and Sergeant Vickery she had sent Lieutenant Eagan via e-mail. She told Lieutenant Eagan she had taken the two photographs on May 30, 2013, while out boating with Sergeant Vickery and two friends, Chelsea O'Brien and Steve Fisher. She then described each photograph for the record.

Ms. Swindle said the first photograph showed Sergeant Vickery sitting on his boat and drinking from a Fireball Cinnamon Whiskey bottle. She was also in the photograph as she took the photo from her cell phone camera. The second photograph showed Sergeant Vickery sitting in a similar position on his boat holding a 12 oz. can of Bud Light beer. Ms. Swindle was again in this photograph as she took the photo using her cell phone camera. In the right side of the photo again shows the Fireball Cinnamon Whiskey bottle sitting atop the Yeti boat cooler.

Sergeant Kenneth Vickery

On July 19, 2013, Lieutenant Eagan and Sergeant Tatum conducted a sworn recorded interview with Sergeant Vickery in the Sheriff's Conference room at the County Administration building in DeLand, FL. Also present were Teamster's representatives, Josh Vedder and Brodie Hughes. The following is a summary of the interview.

Sergeant Vickery is a nineteen year law enforcement officer, having worked for the Volusia County Sheriff's Office for the past eleven years. He has been a supervisor with the Sheriff's Office for the past five and one half years.

Sergeant Vickery started the interview explaining the events that occurred on May 30, 2013. He said after working on May 29, 2013 from 1500 to 0300 hours, he met some friends and shot pool at a residence. He admitted to drinking a couple of beers over the next several hours. He continued, saying in the early morning hours three of them decided to take his boat out.

Sergeant Vickery told investigators on May 30, 2013 around 0900 hours, he decided to call in sick to work. He explained he had tweaked his back a week prior helping his recent ex-girlfriend move her furniture and slipped and fell a day prior to calling in sick on his kitchen floor while moving his kitchen table. He thought he may have bruised or broken a rib because of the discomfort he felt after the fall. He said he never sought medical attention for the injury. Sergeant Vickery did seek the advice of a registered

nurse friend who told him there wasn't much that could be done for the injury. Sergeant Vickery said he called Lieutenant Westfall to report his sick leave request, because of the continued discomfort of his ribs from wearing his department issued ballistic vest. He told investigators the pressure from the tight vest caused him pain and discomfort. He denied being untruthful with Lieutenant Westfall. Sergeant Vickery stated his injury was common knowledge on his shift and his son was an eyewitness to his slip and fall accident.

Sergeant Vickery was forthright about his boating escapade along with his consumption of alcoholic beverages throughout the day. He recalled drinking approximately six beers and a couple shots of the Fireball Cinnamon Whiskey during the eleven hour time period. He said he did not think he was intoxicated or under the influence of alcoholic beverages.

Sergeant Vickery was shown the two photographs received from Ms. Swindle. He agreed the photos were accurate depictions of him consuming the whiskey and holding a can of beer in his hand. He did not recall the photographs being taken, but agreed they were of him from the May 30, 2013 day.

Sergeant Vickery told investigators he did ride on the tube float for a couple hundred yards that day. He said Mr. Fisher was driving the boat and in retrospect, allowing Mr. Fisher to drive his boat was a poor decision. Sergeant Vickery admitted in hindsight Mr. Fisher probably had too much to drink to be operating a boat, let alone towing someone on a float. Sergeant Vickery stated riding the float for the short period of time aggravated his rib/side injury. He also said he lost his bathing suit during the short trip and quickly gathered his bathing suit and immediately put it back on. When asked about riding the tube naked for an extended period of time, Sergeant Vickery responded, *"I, I believe I had my shorts completely back on when I was back on that float. I was in the process of putting them on but I wasn't riding the tube naked. My shorts did fall off like I said when I was going but I promptly let go of the float after that."*

When asked about his thoughts of riding on a tow float the day he called in sick to work he said, *"If I had the right hindsight I would have never taken the boat out that day obviously but you know, no I agree it probably was not the best judgment I made that day but it was one that I made so no it definitely wasn't the brightest idea."* Sergeant Vickery first told investigators Mr. Fisher was not intoxicated when he operating Sergeant Vickery's boat and towing Sergeant Vickery on the tube float. When prodded more about Mr. Fisher's described erratic boat operating behavior, Sergeant Vickery admitted Mr. Fisher had a little bit too much to drink to be operating a boat and he said, *"So he I didn't believe he was at the level of intoxication at that point until I saw the way he was driving and was rapidly about ready to get off the float anyway."* and *"Based on the way he was driving that boat I came to that conclusion."*

Sergeant Vickery was asked about Ms. Swindle's accusations of threatening her. Sergeant Vickery denied ever threatening Ms. Swindle. He described her as extremely intoxicated and irrational. He explained Ms. Swindle was flirtatious with Mr. Fisher as the two of them sat next to one another at the front of the boat. Sergeant Vickery made a

comment to Ms. Swindle that Mr. Fisher's fiancé was sitting right here and what she was doing was rude to Ms. O'Brien. Sergeant Vickery said Ms. Swindle became irate and irrational. She wanted to be dropped off and when the boat was close to shore, Ms. Swindle jumped off the boat.

Sergeant Vickery said he had little interaction with Ms. Swindle on the shoreline and brought Ms. O'Brien Ms. Swindle's flip flops. He said Ms. Swindle threatened to call 9-1-1, but he had no idea who she was talking to on her cell phone. Sergeant Vickery admitted he told Ms. Swindle to call the police, because he had not done anything wrong. After Ms. O'Brien tried to talk Ms. Swindle back onto the boat, Sergeant Vickery said he, Ms. O'Brien and Mr. Fisher left and returned to the boat ramps at the Dunlawton Bridge. There, Sergeant Vickery loaded up his boat and traveled home where he stayed for the evening. When questioned, Sergeant Vickery did not think he needed to report the incident to his supervisor. He responded, *"To be honest with you sir I didn't feel it was a law enforcement matter. Had it been or I thought anything that I had done wrongly other than you know calling in sick to work would have brought anything about I would have notified Lt. Westfall."* Sergeant Vickery admitted in hindsight, *"But yeah I, next time I'll probably let somebody know."*

Sergeant Vickery was asked if he had any knowledge the three people he went boating with had criminal records, two of which had served one year of felony drug offender probation. Sergeant Vickery told investigators he had no idea the three had criminal records and he never used his department computer to run them. Sergeant Vickery confirmed he met Ms. O'Brien and Mr. Fisher at a bar, while out with friends.

Sergeant Vickery denied discussing the investigation with any witnesses. He said he had some minor interaction with Ms. O'Brien and Mr. Fisher, but none of the interaction involved discussing the internal affairs investigation.

When given an opportunity to add anything to his statement, Sergeant Vickery added he had only called in sick to work four times in the past eleven years. A query of the Kronos automated timecard system used by the Sheriff's Office confirmed Sergeant Vickery has only called in sick to work four times since the inception of the Kronos system on February 10, 2007.

Sergeant Vickery did not believe he violated department policies related to sick leave abuse and responded, *"I believe I had an error in judgment that day. I don't as far as the policy is written believe I misused my sick leave benefits that day. Had I been given the opportunity to go back and make that change obviously there would have been a non boat day. Would I have still called in sick that day? Yes sir. I gave up four days of overtime after that because of my ribs."* He contended his sick leave starts at 1500 hours on May 30, 2013 and these events occurred before his duty time. He also believes the recreation he was involved in was not during his duty hours and does not apply to the alleged department policy violation.

When questioned, Sergeant Vickery had the following response as to whether he felt he

violated the following policy:

26.2.18 Misuse of Sick Benefits - Employees shall not feign illness or injury or falsely report themselves ill or injured or otherwise deceive any commanding officer or supervisor of the Department as to the conditions of their health for purposes of avoiding normal duties through use of accumulated sick leave. Performance of physical, income producing or recreational activities while on sick leave shall be prima facie evidence of sick leave abuse. No

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26.2.106 Untruthfulness - Employees shall not knowingly make false or untrue statements except as authorized in the performance of duties and as necessary to maintain covert operations during investigation of criminal activities. *(Violation subject up to dismissal.)* No
(See Tab-L For Complete Transcript of Interview)

Sergeant Michael Odgers

On July 25, 2013, Lieutenant Eagan conducted a sworn recorded interview with Sergeant Michael Odgers by phone. The following is a summary of the interview.

Sergeant Odgers is a twenty three and one half year veteran law enforcement officer who has worked with the Volusia County Sheriff's Office for the past fifteen and one half years. He has been a supervisor for the past nine and one half years. Sergeant Odgers works on the same shift as Sergeant Vickery on a three hour stagger pattern schedule either before or after Sergeant Vickery's starting time. The two alternate their shift every two months.

Sergeant Odgers was questioned if he recalled Sergeant Vickery on or before May 29, 2013, claiming an injury to his ribs or back. Sergeant Odgers did have a recollection of May 29, 2013, and he described Sergeant Vickery as moving slowly or gingerly that shift and Sergeant Vickery told him he was not feeling well. Sergeant Odgers thought his movements were out of character, as Sergeant Vickery is physically fit and does not complain when he's not feeling well. Sergeant Vickery expressed no complaint of injury, but Sergeant Odgers did notice a difference in his demeanor.

Sergeant Odgers also remembered Sergeant Vickery sending him a text message on May 30, 2013 indicating he would not be coming into work, he had called in sick. Sergeant Odgers told Lieutenant Eagan the shortage created by Sergeant Vickery's sick call did not create any work issues during the shift he out sick. The next work day following Sergeant Vickery's sick call, Sergeant Vickery told Sergeant Odgers he had injured his

side moving furniture the week prior. Sergeant Odgers' statement somewhat corroborates Sergeant Vickery's statement of being injured prior to calling in sick to Lieutenant Westfall on May 30, 2013.

CONCLUSION:

On July 30, 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 Directive to be:

- | | |
|-----------------------------------------------------------------------------|----------------------|
| 26.2.18 Misuse of Sick Benefits - | Sustained |
| 26.2.19 Employees are expected to remain at their place of residence | Unfounded |
| 26.2.24 Leaving Assigned Work Area - | Sustained |
| 26.2.13 Failure to Report for Duty Due to Conduct - | Sustained |
| 26.2.106 Untruthfulness - | Not Sustained |

On August 2, 2013, Sergeant Vickery was served with Intent to Demote and Suspend letter at his home [REDACTED]. Sheriff Johnson stated in his letter to Sergeant Vickery of his intention to demote Sergeant Vickery to the rank of Deputy II and suspend him from duty without pay for a period of ten (10) work days which equates to eighty (80) hours.

On August 13, 2013, Sergeant Vickery met with Sheriff in the Sheriff's conference room for a pre-disciplinary meeting. Also present were Chief Deputy Mike Coffin, Major Robert Jones, Lieutenant Eagan, Teamster's Business Agent Bob Walker and Teamster's representative Josh Vedder.

On August 15, 2013, Sergeant Vickery was served by Lieutenant Eagan in the Sheriff's conference room at the County Administration building in DeLand, FL with his Final Suspension letter. Sergeant Vickery will serve a twenty (20) work day suspension without pay from August 31, 2013 thru September 27, 2013. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

EXHIBITS:

- A. Report Of Investigation
- B. Official Correspondence
- C. Complaint – Supervisor’s Inquiry & CAD Call
- D. Advisement Administration Of Oath/Perjury Warning/Garrity Warning
- E. Official Transcript Of 9-1-1 Call
- F. Official Transcript Of Lieutenant Eric Westfall
- G. Official Transcripts Of Nicole Swindle
- H. Official Transcript Of Leila & John Adams Jr.
- I. Official Transcripts Of Chelsea O’Brien
- J. Official Transcripts Of Steven Fisher
- K. Official Transcript Of Sergeant Kenneth Vickery
- L. Official Transcript Of Sergeant Michael Odgers
- M. Kronos For Sergeant Vickery
- N. Miscellaneous Documents
- O. Digital Media

WITNESSES:

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Sergeant Michael Odgers
Volusia County Sheriff's Office
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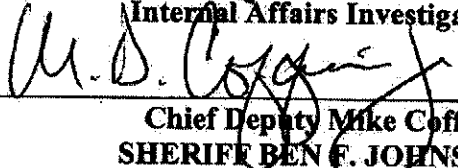
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Steven Fisher
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Port Orange, FL
254-226-2052

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

INVESTIGATOR:  DATE: 08/16/13
Lieutenant Erik Eagan
Internal Affairs Investigator

APPROVED BY:  DATE: 8/16/13
Chief Deputy Mike Coffin
SHERIFF BEN F. JOHNSON
VOLUSIA COUNTY FLORIDA