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12/2/09*

Department of Public Protection
Internal Affairs

TO: Marilyn Chandler Ford, Ph.D., CJM, Director
Division of Corrections

FROM: Nikki Dofflemyer, Captain
Division of Corrections
Internal Affairs Unit *NJ*

DATE: December 1, 2009

SUBJECT: Case # IA- 2009-09-273, North, Timothy

Background:

On September 14, 2009, the Division of Corrections, Internal Affairs Unit, received information from the Corrections Director alleging officer misconduct. The complaint alleged on August 30, 2009, Officer Timothy North allowed inmates to view the County Mug Shot system. Further, Officer North permitted the inmates to view the arrest photograph and confidential information of a corrections officer. The complaint alleged Officer North filed a false document and gave a false statement to his supervisor.

During the review of documents provided by the Division of Correction the following alleged acts of misconduct were reported: Those acts include:

1. Unprofessional Conduct;
2. Filing a false report/false statement;
3. Failure to follow safety and security procedures;
4. Failure to report unusual incident;
5. Unauthorized use of Volusia County computer system;
6. Disclosure of confidential information related to staff in violation of Florida Statute, 119.071 (4) 2 (d) and 119.10 (2) a.

Complainant Statement:

Dale Woten – On September 21, 2009 a sworn statement was provided by the complainant Officer Dale Woten. Officer Woten reported on September 2, 2009, he was assigned as the Unit 9 Housing Unit Officer. Officer Woten advised Inmate Anthony Napolitano #722212, and Inmate Clifford Heald #800134, were

housed on Unit 9. Officer Woten testified Officer Napolitano told him he had seen his booking card photograph from when he had been arrested. Further, Inmate Napolitano recited part of Officer Woten's home address. Officer Woten stated Inmate Napolitano was able to give his street name, house number and started to say the city when he stopped him. Officer Woten reported he questioned Inmate Heald who told him he had seen his picture on the computer and his last name.

Officer Woten stated the inmates told him while they were working on Unit 3 Officer North brought up the photograph on the computer on his own accord. The inmates advised Officer North told them a story of how he had eluded police officers while he was drunk and refused to stop for the law enforcement officer. Officer Woten advised he did not attempt to elude law enforcement.

Officer Woten advised when he was arrested his parents' address was listed on the booking detail card. Officer Woten reported the address the Inmate Napolitano recited to him was not his home address but it was his parents' residence which caused him concern for their safety.

Officer Woten stated the inmates told him they had seen a picture of another officer who had been arrested but they did not know the officer's name and did not see any confidential information.

Inmate Interviews:

Clifford Heald - On September 16, 2009, an interview was conducted with Clifford Heald #800134, an inmate incarcerated at the Volusia County Branch Jail. Inmate Heald indicated on August 30, 2009, he was assigned as a trusty on Unit 3.

Inmate Heald stated he was on Unit 3 working as a trusty when he saw Officer North looking at photographs of females who had been arrested. Inmate Heald advised he asked Officer North to search for names of people he knew. Inmate Heald advised Officer North did search for the names he had provided. Further, Inmate Heald stated he asked Officer North to search for Officer Woten's photograph because he heard he was previously arrested. Inmate Heald reported Officer North showed him and Inmate Anthony Napolitano Officer Woten's arrest photograph and began to tell him an "elaborate story" associated with the arrest.

Inmate Heald advised that he and Inmate Napolitano were allowed by Officer North to view approximately 15 photographs on the Volusia County Mugshot system.

Anthony Napolitano - On September 16, 2009, an interview was conducted with Anthony Napolitano #722212, an inmate incarcerated at the Volusia County

Branch Jail. Inmate Napolitano reported he was assigned to Unit 3 as a trusty on August 30, 2009.

Inmate Napolitano reported Officer North was going through pictures on the computer and was looking at photographs of female inmates. Inmate Napolitano stated Officer North allowed him and Inmate Heald to view the photographs. Inmate Napolitano reported Officer North told him what charges the inmates were being held in custody on. Inmate Napolitano reported he was shown a photograph of Christina Parnell and provided partial address information.

Inmate Napolitano advised he or Inmate Heald asked Officer North if any officer had been arrested. Inmate Napolitano stated Officer North showed him Officer Woten's arrest photograph and a photograph of a black officer. Inmate Napolitano advised he did not recognize the black officer. Further, Inmate Napolitano reported he was able to see Officer Woten's personal information while viewing the detail screen. Inmate Napolitano was able to recite partial address information associated with Officer Woten. Inmate Napolitano reported Officer North told him Officer Woten had been arrested for Driving Under the Influence.

Inmate Napolitano reported Officer North was "cracking jokes" about Officer Woten's arrest. Inmate Napolitano stated Officer North said Officer Woten was a hypocrite, "Because he is here to protect society or, you know, protect public protection, but he's out there committing crimes and doing illegal activities."

Inmate Napolitano stated on one other occasion Officer North allowed him to view arrest photographs.

Inmate Napolitano reported he may have told other inmates Office Woten's address.

Witness Interviews:

Captain Rodney Prince – On September 21, 2009 a sworn statement was provided by Captain Rodney Prince. Captain Prince advised he was the supervisor for Officer North on Delta Shift at the Branch Jail. Captain Prince advised he received a report authored by Office Woten associated with an event that took place on August 30, 2009. The report indicated Officer North showed Officer Woten's arrest photograph to two trustees when they were assigned to Unit 3 for breakfast detail.

Captain Prince advised he initiated an investigation and directed Officer North to report, to the Shift Commander's office. Captain Prince testified he read Officer Wotens report to Officer North and asked him specifically did he use the Mug Shot system on Unit 3 to pull up any pictures. Captain Prince stated Officer North reported he had viewed the Mug Shot system. Captain Prince testified he then

asked Officer North if he had pulled up the picture of Officer Woten and Officer North responded, "No, he'd never do that. It didn't happen." Captain Prince reported he asked Officer North three or four times if he had shown Officer

Woten's photograph and each time Officer North responded he said, "No".

Captain Prince advised he then questioned Officer Navarro who was assigned to Unit 3 on August 30, 2009, as Officer North's partner. Captain Prince stated he asked Officer Navarro did he see Officer North access the Mug Shot system on August 30, 2009. Captain Prince advised he asked if Officer North had shown the arrest photograph as well as charges for Officer Woten to the two inmates assigned to Unit 3. Officer Navarro stated "It did happen." Captain Prince stated Officer Navarro advised the inmates were laughing about the photograph.

Captain Prince reported Officer Navarro advised he did not report the incident because, "He didn't think it was a big deal."

Captain Prince reported Officer North and Officer Navarro submitted written reports of the incident. Captain Prince advised Officer North's report stated he did not show the photograph of Officer Woten to the inmates, and Officer Navarro's written statement advised the photograph was shown.

Captain Prince testified that six days after the original report was submitted by Officer North, Officer North submitted a second report. In the second report Officer North admitted he did show the inmates Officer Woten's booking picture, but denied providing information to the inmates associated with the arrest. Captain Prince advised Officer North stated the inmates requested him to look for Officer Woten's photograph.

Captain Prince advised when he spoke with Officer North it did not appear that he understood the seriousness of his actions. Captain Prince stated Officer North thought his actions were humorous.

Officer Sergio Navarro - On September 21, 2009 a sworn statement was provided by Officer Sergio Navarro. Officer Navarro stated on August 30, 2009, he was assigned as the Housing Unit Officer on Unit 3. Officer Navarro stated chow was coming on to the Unit he was making entries in the Unit 3 log book. Officer Navarro reported he heard one of the trustees ask Officer North if any officer ever had been arrested. Officer Navarro advised when the chow trays arrived on the unit, "I turned around and that's when I saw Officer Woten's face on the computer". Officer Navarro reported the photograph was on the screen for about five seconds. He advised he looked at it and told the trustees to help him feed chow.

Officer Navarro advised he was directed to report to the Shift Commander's office

by Captain Prince on September 3, 2009, to discuss the events that transpired on August 30, 2009. Officer Navarro advised he provided a verbal as well as a written statement to the events as they transpired. Officer Navarro advised when he returned to Unit 3 Officer North told him he did not show anything to the inmates.

Officer Navarro stated he did not see photographs any other officers being viewed by the inmates. Officer Navarro reported it is a common practice for Officer North to view the Mug Shot system.

Sergeant Andrea Henkle - On September 22, 2009 a sworn statement was provided by Sergeant Andrea Henkle. Sgt. Henkle reported on the morning of September 3, 2009, she was approached by Officer Woten at the Branch Jail in the parking lot prior to reporting for duty. Sgt. Henkle stated Officer Woten told her he was informed by inmates on Unit 9 that another officer had shown them his booking photograph. Sgt. Henkle advised she directed Officer Woten to have the inmates submit a written statement.

Sgt. Henkle stated she received a written statement from Inmate Napolitano and Inmate Heald. Sgt. Henkle advised an interview was conducted with both inmates.

Sgt. Henkle advised Inmate Heald told her he was watching Officer North flip through inmate booking photographs when he came across Officer Woten's picture.

Sgt. Henkle reported Inmate Napolitano stated Officer North was looking at the photographs of female inmates. One of the inmates asked Officer North if any officer had been arrested. Sgt. Henkle stated the inmates reported Officer North accessed the photograph of Officer Woten and Officer C. Williams and allowed the inmates to view them.

Sgt. Henkle advised the inmates did not report knowing any confidential information about Officer Williams. Sgt. Henkle indicated the inmates stated Officer Woten had been arrested for Driving Under the Influence.

Subject statement:

Officer Timothy North - On November 2, 2009, Officer North provided a sworn statement to the Internal Affairs Unit. Officer North stated Inmate Heald and Inmate Napolitano were assigned as trustees on Unit 3 on August 30, 2009. Officer North stated the inmates were having a conversation about Officer Woten.

Officer North advised Inmate Heald asked him if he could show them the booking picture of Officer Woten. Officer North reported he logged on to the system and

December 1, 2009

IA 2009 09 273

Page 6 of 9

allowed the inmates to view Officer Woten's booking photograph and detail card. Officer North acknowledged the detail card contained confidential information associated with Officer Woten. Officer North reported he did not view any other photographs while the inmates were present. Officer Woten stated he logged out of the system directly after showing the picture. Officer North denied showing a photograph of Officer Williams while the inmates were present.

Officer North stated when he returns to work from his days off he logs on to the Mug Shot system to see who has been arrested. Officer North advised that he accesses the Mug Shot system for other than authorized and approved uses. Officer North denied viewing only female inmates and indicated the only female inmates viewed were mixed in with male arrestees. Officer North denied showing Inmate Napolitano and Inmate Heald 15 to 20 photographs of inmates.

Officer North advised on September 3, 2009, he spoke with his Supervisor, Captain Prince about the alleged incident. Officer North testified Captain Prince asked him if he had shown Officer Woten's booking photograph to inmates. Officer North advised he made a statement to Captain Prince denying he had shown the picture. Officer North indicated he submitted a written report that he again denied showing the picture. Officer North testified he recognized he had filed a false document as well as given a false statement.

Officer North stated on September 9, 2009, he filed a rebuttal report associated with this incident. Officer North advised he documented that he had shown the booking photograph of Officer Woten to Inmate Heald and Inmate Napolitano. Officer North indicated the inmates were laughing after viewing Officer Woten's photograph and he did not direct them to cease that activity.

Officer North denies he called Officer Woten a hypocrite while inmates were present.

Officer North stated he was aware inmates should not have access to personal or confidential information associated with an officer. Officer North advised while attending the recruit academy at Daytona State College he attended a Legal course. He advised during this course of instruction Florida Statute and confidentiality of law enforcement information was discussed.

Officer North stated he was aware of Volusia County's current computer policy and computer usage is for job-related tasks. Officer North indicated he recognized he released confidential information associated with Officer Woten, which is a violation of Division Policy as well as Florida Statute.

Findings:

Based on the investigative process and available information the following Division Policy, Merit Rules and Regulation violations, and Florida Statute Violations **were sustained:**

- 1. Unprofessional Conduct - SUSTAINED**
- 2. Filing a false report /false statement - SUSTAINED**
- 3. Failure to follow safety and security procedures – SUSTAINED**
- 4. Failure to report unusual incident to supervisor when known - SUSTAINED**
- 5. Unauthorized use of Volusia County computer system – SUSTAINED**

Volusia County Merit System, Section 86-453 Reasons for disciplinary action
(1) Willful neglect in the performance of the duties of the position to which the employee is assigned; and

Volusia County Merit System, Section 86-453 Reasons for disciplinary action
(12) Knowingly giving false statements to supervisors, other officials or the public; and

Volusia County Division of Corrections Policy and Procedures:
102.09 A. Each Correctional Officer shall adopt a professional attitude toward his/her job; and

Volusia County Division of Corrections Policy and Procedures:
102.09 C. No CO shall make or cause to be made any false official report or knowingly enter or cause to be entered in any record or report any inaccurate, false, or improper information; and

Volusia County Division of Corrections Policy and Procedures:
102.09 M. COs shall not discuss Division of Corrections matters in the presence of inmates; and

Volusia County Division of Corrections Policy and Procedures:
102.09 PP. Each employee shall refrain from improper conduct, including:
1. Home address and home telephone number confidential: Employees shall treat the home address and telephone numbers of members as confidential information. Such information shall be released only when authorized by competent authority or with consent of the members concerned.

2. Gossip: Employees shall not engage in or convey gossip detrimental to other members of the Division.; and

Volusia County Division of Corrections General Post Orders:

6. *Ensure the safety of staff and the safe custody and care of all inmates in their charge. Each employee shall be responsible for exercising good security and custody methods within a safe and sanitary environment; and*

Volusia County Division of Corrections General Post Orders:

9. *Maintain the confidentiality of matters relating to inmates, subordinates, peers, supervisors and as otherwise instructed except as allowed by Division Policy; and*

Volusia County Division of Corrections General Post Orders:

29. *Notify their immediate supervisor and make a complete written report of all unusual incidents that occur during a tour of duty; and*

Volusia County Division of Corrections General Post Orders:

34. *Ensure use of telephones, radios, computers, and other communication devices be confined to official and necessary communications; and*

Volusia County Division of Corrections General Post Orders:

46. *Not engage in or convey gossip detrimental to other staff; and*

Volusia County Division of Corrections General Post Orders:

48. *Treat home addresses and telephone numbers of staff as confidential information. Such information shall be released only when authorized by competent authority or with consent of the staff concerned; and*

Volusia County Computing Security Policy:

Equipment Security – *Computer hardware, software, and networks are the property of the County of Volusia and are provided for the purpose of conducting County business.*

6. Disclosure of confidential information related to staff in violation of Florida Statute, 119.071 (4) 2 (d) and 119.10 (2) a.

119.071 (4) 2 (d) General exemptions from inspection or copying of public records

The home addresses, telephone numbers, social security numbers, and photographs of active or former law enforcement personnel, including correctional and correctional probation officers, personnel of the Department of Children and Family services whose duties include the investigation of abuse, neglect, exploitation, fraud, theft, or other criminal activities, personnel of the Department of Health whose duties are to support the investigation of child abuse or neglect, and personnel of the Department of Revenue or local governments whose responsibilities include revenue collection and enforcement or child support enforcement, the home address, telephone

numbers, social security numbers, photographs, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1); and

Violation F.S. 119.10 (2) a – Violation of chapter; penalties

(2) Any person who willingly and knowingly violates:

(a) Any of the provisions of this chapter commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083 – SUSTAINED to lesser – F.S. 119.10 (1) (a) Violates any provision of this chapter commits a noncriminal infraction, punishable by fine not exceeding \$500

Concluding Statement:

The Internal Affairs Unit initiated the investigation on September 15, 2009, with the intent to conduct a comprehensive review of all matters related to the allegations of professional misconduct associated with Officer North. On September 17, 2009, Officer North was notified in writing a complaint had been filed against him, and an investigation would commence. The allegations, as presented, were thoroughly and objectively investigated.

Therefore, based on the information obtained during this investigation, supported by witness statements, documents provided by the Division of Corrections, and admissions by the subject officer, the allegations of misconduct as presented were SUSTAINED.

This investigative report is being submitted for your review and action as deemed appropriate. With your approval this case file will be closed without further action from this unit.

"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 subject of the investigation of any of the rights contained in ss.112.532 and 112.533, Florida Statute."


Signature

Nikki A. Doffenyer, Captain
Name (printed)

12/2/09

Case may be closed. Mcford
C: M. Coffey, Director,
Public Protection

N. Jones County legal
C. Freeman, Adult Services

- ① Disciplinary action for policy violations to be drafted.
- ② Cited criminal violations to be reviewed for determination of...