



**Department of Public Protection**

TO: George Recktenwald, Director  
Department of Public Protection

FROM: David Vanis, Captain  
Department of Public Protection  
Internal Affairs Unit

DATE: February 18, 2013

SUBJECT: Case # IA-2013-02-315, Sergeant Benjamin West, Volusia County Department of Corrections

**References:**

- A. Memo requesting investigation (Dated 2/1/2013).
- B. Memo from Captain Vanis to Director Recktenwald explaining the phone conversation with Sergeant West (Dated 2/4/2013).
- C. Notice of internal investigation addressed to Sergeant West (Dated 2/1/2013).
- D. Signed advisement of rights form
- E. Sgt. West witness interview for IA 2012-11-312 (Dated 11/20/2012).
- F. Sgt. West witness follow-up interview for IA 2012-11-312 (Dated 1/23/2013).
- G. Sgt. Benjamin West interview transcript for IA 2013-02-315
- H. Picture of [REDACTED] prescription (prescribed 1/26/2013).
- I. Picture of [REDACTED] prescription (prescribed 1/26/2013).
- J. U.S. National Library of Medicine website information for [REDACTED] and [REDACTED]

**Complaint:**

On November 20, 2012 I conducted a sworn witness interview with Sergeant West in regards to a complaint filed against Captain Nina Hunter (IA case number 2012-11-312). During the course of that interview, West told me that while he was in the shift commander's office on August 4<sup>th</sup>, 2012 that "I think she licked the back of his head." Later in the interview West stated "so I know when she licked his head I know it really made him mad...and I know he tensed up and his back was also hurting." At the conclusion of the interview, it was my understanding that Sgt. West witnessed Captain Hunter lick Charles Cella's head on August 4, 2012.

On January 23, 2013 I conducted another sworn witness interview with Sgt. West in regards to the same complaint. This interview was meant to address certain allegations brought up by Captain Hunter during her subject interview. At the end of the interview, I asked Sgt. West to tell me again what he had witnessed in the Shift Commander's office on August 4, 2012. Sgt. West told me "I guess as we were looking for it or whatever ahm is when I saw her...saw her lick his head or something like that and I was like man, what are you doing." When I asked "So what exactly did you see," Sgt. West responded "I saw her lick I saw her lick the back of his head." To verify what West had witnessed, I asked "Ok. And you're you're certain you saw her lick his

head? "West responded "Yeah." At the conclusion of this interview, it was also my understanding that Sgt. West had witnessed Captain Hunter lick Charles Cella's head.

On February 1, 2013 at 1302 hours, I received a phone call from Sgt. West. West told me that he just wanted to clear things up because he didn't remember what he had told me during our last interview on January 23<sup>rd</sup>. West told me that he never witnessed Captain Hunter lick Charles Cella and that he just wanted me to be clear on that. West told me that he had witnessed Captain Hunter give Cella a "wet willie" on August 4<sup>th</sup>, contrary to his first interview.

#### **Information:**

After receiving the phone call from West, I immediately notified Director Recktenwald of the new information. Director Recktenwald told me to conduct an investigation into the false statements previously provided by Sgt. West.

I served Sgt. West notice of this internal affairs case at his residence on February 1, 2013. While serving his notice, West made an unsolicited comment that he just wanted to be clear that he didn't see Captain Hunter lick Charles Cella.

West reported to the Internal Affairs office at the Volusia County Branch Jail as directed on Monday February 11, 2013 at 1730 hours. Sgt. West told me that he wished to have an attorney present to act as his representative but was unable to arrange for one at this time. I rescheduled the interview for Friday February 15, 2013 at 1730 hours to allow Sgt. West time to arrange for an attorney to be present.

#### **Sergeant Benjamin West:**

I conducted a sworn, audio recorded, interview with Sgt. West at the Internal Affairs office in the Volusia County Branch Jail on Friday February 15, 2013 at 1730 hours. West and his attorney, Erin Thompson, reviewed all associated documents prior to the beginning of the interview.

I asked West to once again recall the events involving Captain Hunter and Charles Cella the morning of August 4, 2012. West told me how Cella contacted him in the chow hall and that he had taken Cella to the clinic in Unit 11. West told me that the clinic staff advised him to take Cella to the emergency department at Halifax Hospital. West then escorted Cella to the shift commander's office. West told me, while he was getting paperwork in order in the office, that "She did lick the back of his head." He told me that he did not witness Hunter give Cella a "wet willie."

I questioned why he told me on the phone and in person on February 1, 2013 that he did not see Hunter lick Cella's head and that he had seen Hunter give Cella a "Wet willie." West responded that he had been out of work with a back injury since the previous Saturday (January 26, 2013) and been "popping pain meds." He told me that, from what he recalled in our conversation on the phone, that he "had doubt" that he had witnessed Hunter lick Cella's head. He explained that he felt like he would be retaliated against since Hunter was a Captain within the division and that he was only a Sergeant. He did not recall stating "she did not lick him," or any statement like that. He stated that he was confused because of the medications.

West provided me with two prescription bottles. One was [REDACTED] tablets the other was [REDACTED]. Both prescriptions were filled on January 26, 2013 and prescribed to Benjamin West. I took pictures of both bottles and verified that they were prescribed to West.

I researched [REDACTED] and [REDACTED] on the U.S. National Library of Medicine's website. [REDACTED] is described as a non-steroidal anti-inflammatory drug ([REDACTED]). It is also available in smaller dosages over the counter and better known by its name brand [REDACTED]. Side effects for Naproxen include constipation, diarrhea, gas, sores in mouth, excessive thirst, headache, dizziness, lightheadedness, drowsiness, difficulty falling asleep or staying asleep, burning or tingling in the arms or legs, cold symptoms, ringing in the ears, and hearing problems. Confusion was listed as a sign of overdose. [REDACTED] is a prescription muscle relaxant. It is the generic form of [REDACTED] and [REDACTED]. Possible side effects of [REDACTED] include drowsiness, dry mouth, dizziness, and upset stomach.

### **Conclusion:**

On February 1, 2012 I responded to Sergeant West's residence in [REDACTED] to serve him notice of this Internal Investigation. I spoke to West for approximately five minutes. At no time during our interaction did I believe that West was under the influence of alcohol or any narcotic. His speech was very clear and he showed no other signs of impairment. West made an unsolicited remark to me that he just wanted to be clear that he had never seen Captain Hunter lick Cella.

Prior to receiving the phone call on February 1, 2013 from Sgt. West telling me that he did not witness Captain Hunter lick Charles Cella's head or neck, West was the only corroborating witness to Cella's complaint that this event did occur (See IA 2012 11 312). Although his sworn testimony in this case is the same as his sworn testimony in IA 2012 11 312, his phone call caused doubt on his statement and a loss of credibility as a witness against Captain Nina Hunter thus changing the probable outcome of that case.

### **Findings:**

Based upon sworn and non-sworn statements made by Sergeant West the following allegations against him are **sustained**:

#### *Volusia County Department of Corrections Policy 102.09(c):*

- 1. All staff shall make or cause to be made accurate, complete and truthful reports and official records.*
- 2. No staff member shall knowingly make or cause to be made any false report or falsify any official record.*

*No staff member shall make or cause to be made any inaccurate, misleading, contradictory, or improper report/official record.*

#### *Volusia County Merit Rules 86-453(12):*

*Knowingly giving false statements to supervisors, other officials or the public.*

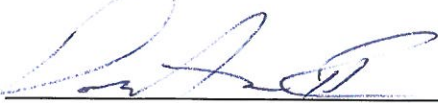
#### *Volusia County Merit Rules 86-453(8):*

*Criminal, dishonest or other conduct which interferes with effective job performance or has an adverse effect on the efficiency of county service.*

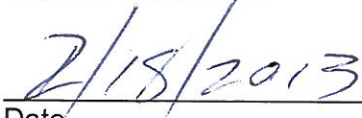
**Concluding Statement:**

Unless otherwise directed, this investigation is considered closed, and is submitted for review and action as deemed appropriate. The original attachments of interviews and other documents pertaining to this investigation remain on file with the Internal Affairs 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."



Captain David Vanis



Date