



INTER-OFFICE MEMORANDUM

TO: James Ryan, Deputy Director  
Department of Public Protection

FROM: Nikki Dofflemyer, Captain  
Department of Public Protection  
Internal Affairs Unit

DATE: August 13, 2010

SUBJECT: Case # IA- 2010-05-281, FF/PM Giraldo, Kenneth

**Complaint:**

On May 3, 2010, Department of Public Protection Deputy Director, James Ryan, directed the Internal Affairs Unit initiate an investigation into the circumstances surrounding two incident reports filed with the Volusia County Sheriff's Department (VCSO) by Mrs. Jamie Giraldo. The incident reports stated that a schedule II controlled substance, along with other medical items were found at the residence of Firefighter/Paramedic (FF/PM) Kenneth Giraldo.

**Background:**

Mrs. Giraldo had made contact with the Sheriff's Office on two separate occasions. She first contacted the VCSO on April 16, 2010, to report that she had found medical items in her residence. Mrs. Giraldo reported FF/PM Giraldo had previously brought supplies home in a brown paper bag to take to Daytona State College (DSC). Mrs. Giraldo advised the items she found were not items she knew were normally brought into the residence by FF Giraldo. According to incident report #100012122, completed on April 21, 2010, by VCSO Deputy Steven Shirah, the following items were found on April 16, 2010, in the Giraldo residence at \_\_\_\_\_ in the county area near \_\_\_\_\_ : a pre-filled syringe labeled morphine sulfate; 1 vial labeled morphine sulfate; 3 ampoules labeled epinephrine; 4-5 vials labeled generic benedryl (diphenhydramine); and, 4-5 vials labeled solu-medrol.

Deputy Shirah's report noted that he examined the medications inside the bag and saw a syringe pen labeled morphine sulfate that was leaking liquid, a non-expired vial that was labeled as morphine sulfate that had a pinhole in the cap, several vials labeled diphenhydramine, and several vials labeled solu-medrol.

Deputy Shirah reported he contacted FF/PM Giraldo by telephone about the medication vials. FF/PM Giraldo responded in Engine 15 to the scene (his residence) while on duty. FF/PM Giraldo reported to Deputy Shirah that he gets expired medications as well as vials filled with saline solution to take to DSC for the paramedic training program. FF/PM Giraldo affirmed to Deputy Shirah that all the vials contained inside the bag were either expired or filled with saline solution. Deputy Shirah reported he released the medications to FF/PM Giraldo.

Based on the information contained in the first incident report, Volusia County Fire Services (VCFS) Captain Roy Rawlins was directed by his supervisor, Deputy Chief Frank Pocica to make contact with Mrs. Giraldo or FF/PM Giraldo. In his report submitted April 22, 2010, Captain Rawlins advised he was unable to contact her so he left a message for Mrs. Giraldo to call him as he understood there may be an additional bag of medical supplies/equipment still on premises that needed to be collected, and inventoried before disposal. Unable to contact Mrs. Giraldo, Captain Rawlins met with FF/PM Giraldo at Station 15. Captain Rawlins reported that FF/PM Giraldo told him that after meeting with Deputy Shirah at \_\_\_\_\_ and upon returning to his duty station, he had wasted the medication and submitted a written statement.

The second occasion was on April 27, 2010, when Sergeant Shank (VCSO) responded to Ms. Giraldo's residence. Upon his arrival Mrs. Giraldo and Captain Rawlins were present. Mrs. Giraldo reported to Sergeant Shank she had found additional medical equipment and medications in her residence and had first called Captain Rawlins for assistance since he had left a telephone message on April 22, 2010 to call him if any additional assistance was needed. According to her statement, Mrs. Giraldo reported that while she was loading boxes into her vehicle, she discovered a box that contained miscellaneous medical equipment and medications. Mrs. Giraldo said the items were not hers and that they possibly belonged to FF/PM Giraldo. Sergeant Shank filed the second incident report.

The items located at the residence were inventoried by Sgt. Shank and Captain Rawlins on April 27, 2010, as follows:

1. 1 ML vial of 10 MG morphine  
Lot # - 036104
2. Quantity 3 – 2 ML Vials of 125 MG solumedrol  
Lot # - OAPWH expiration 01/2011  
Lot # - OADD7 expiration 05/2010  
Lot # - OATXP expiration 06/2011
3. Quantity 2 – 2 ML syringes of 6 MG adenocard  
Lot # - 56-400-EV expiration 02/2010
4. Quantity 2 – 5 ML boxes of 2% lidocaine HCl  
Lot # - 61-128-DK expiration 01/2010  
Lot # - DE014E7 expiration 04/2009

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5. Quantity 5 – 10 ML syringes contained .9% sodium chloride injections  
Lot # - 66-022-9D expiration 06/2010  
Lot # - 73-047-9D expiration 01/2011
6. Quantity 2 – Boxes containing 1 ML diphenhydramine hydrochloride injections  
50 MG  
Lot # - BE032G7 expiration 06/2010
7. Quantity 2 – 1 ML Vials of epinephrine 1 MG  
Lot # - 58085DD expiration 10/2009  
Lot # - 51210DD expiration 3/2009

Items 1-7 were signed over to Sgt. Shank by Mrs. Gilardo and were then submitted into the District 3 CID locker for possible analysis.

8. Quantity 3 – 500 ML bags .9% sodium chloride
9. Quantity 2 – 1000ML bags .9% sodium chloride
10. Quantity 2 – 20 G x 1.25 angio catheters
11. Quantity 2 – 18 G x 1.25 Protect Plus I.V.
12. Quantity 2 – 24 G x  $\frac{3}{4}$  Protect Plus I.V.
13. Quantity 3 – 22 G x 1 Protect Plus I.V.
14. Quantity 2 – 23 G X 1 needles
15. Quantity 2 – 27 x  $\frac{1}{2}$  1 CC and 3 CC syringes
16. Quantity 3 – 8 inch Microbore extension set
17. Quantity 2 – Vital care I.V. drip set with extension
18. Quantity 4 – Amsino I.V. drip sets

Items 8 – 18 were turn over to Capt. Rawlins for comparison with which lot numbers may have been purchased and used by VCFS.

A narrative report was completed by Captain Dana White from the VCSO on April 28, 2010. Captain White reported the drugs that were stored in District 3 CID locker were retrieved by Investigator Fortin (VCSO). Captain White reported he broke the seal on a 1 ML vial labeled Morphine and then drew up 0.1 cc of clear liquid from the vial into an unused and sealed 1 cc/ml syringe. The clear liquid was then placed into a "NARK #3 Heroin-Morphine Test" tubette. The clear liquid tested positive presumptive as Morphine. Captain White stated all of the drugs and test kit were photographed by Investigator Fortin and submitted into the District 3 evidence locker for safekeeping. On June 16, 2010, during a telephone interview Captain White advised the VCSO would be taking no further action and the case was closed.

In view of the information contained in the two incident reports and on April 28, 2010, Dr. Peter Springer, Volusia County EMS Medical Director, notified FF/PM Gilardo in writing that he was suspending his privilege to function as an emergency medical technician (EMT) and paramedic (PM) under Dr. Springer's

license. Dr. Springer directed FF/PM Giraldo to file a written response to his office to explain the circumstances surrounding this incident.

On May 7, 2010, in a written response to Dr. Springer, FF/PM Giraldo reported he had previously transported assorted bags of medications and EMS equipment to Daytona State College (DSC). FF/PM Giraldo advised he had taken these supplies to his house at times prior to transporting them to DSC. FF/PM Giraldo stated he did not inventory the items and reported that it was a common practice for VCFS personnel to deliver items to DSC for use in the training program. FF/PM Giraldo reported these items were not always in his possession. FF/PM Giraldo provided no explanation for the controlled substances that were located in his residence.

Based on a review of the documents supporting this investigation noted in Attachment 1, the following alleged acts of misconduct are presented:

- 1. Unauthorized possession of a controlled substance**
- 2. Falsifying documents**
- 3. Unauthorized removal of items from county property (misappropriation)**
- 4. Unprofessional Conduct**
- 5. Fail to notify supervisor prior to leaving duty station**
- 6. Unauthorized use of fire station apparatus**

**Complainant Statements:**

**Jamie Giraldo** – On June 8, 2010, a sworn statement was provided by Mrs. Jamie Giraldo. Mrs. Giraldo advised that on April 16, 2010, she was preparing to move from her residence at \_\_\_\_\_, when she noticed her 2 year old son running around with something in his hand. When she asked him what the item was, he dropped it on the ground. She retrieved the item which she identified as a single-use Morphine syringe pen. Mrs. Giraldo stated that FF/PM Giraldo had shared the residence with her until their recent separation on March 3, 2010.

Mrs. Giraldo reported the Morphine syringe pen was cold and she then inspected the refrigerator, located in the garage, to see if any other items were present. She found several other medical items while looking in the refrigerator. Mrs. Giraldo stated she found a couple of vials of epinephrine, ampoules of epinephrine, solu-medrol, and diphenhydramine in the refrigerator and she also located diphenhydramine and solu-medrol in a kitchen drawer.

Mrs. Giraldo contacted the VCISO to file a report associated with the items that were located in the residence. The VCISO arrived and contacted FF/PM Giraldo who responded to the residence in a VCFS Fire Engine. Mrs. Giraldo advised



she had placed the items she found in a Ziploc bag and gave it to the deputy who spoke with FF/PM Giraldo and later released the items to him.

Mrs. Giraldo advised she was contacted by Captain Rawlins because he had some questions associated with the initial police report which reflected the discovery at the residence on April 16, 2010. Mrs. Giraldo reported it was her understanding that Captain Rawlins was under the impression a second bag of medical items were still in the residence. She advised Captain Rawlins there was not a second bag of items at which time he requested she call him if any other items were found.

Mrs. Giraldo reported on April 27, 2010, she found two more vials of solu-medrol "stuffed back in the corner" of the refrigerator located in the garage and contacted Captain Rawlins. While she was waiting for Captain Rawlins to arrive she located 6-8 IV set-ups, saline bags and multiple sizes of needles in a box in the garage. Inside of the box was a Wal-Mart bag, which contained an expired sealed vial of morphine, epinephrine, benadryl, lidocaine and two six-milligram IV push adenocards. Mrs. Giraldo advised the VCSO was contacted and a report was filed.

Mrs. Giraldo stated that she was not aware that FF/PM Giraldo was bringing the above named medical items into the residence. She was aware that FF/PM Giraldo would bring home expired medical supplies in a big paper bag to be transported to DSC and the items would only remain in the home for two or three days.

#### **Witness Statements:**

**Captain Roy Rawlins** – On May 19, 2010, a sworn statement was provided by Captain Roy Rawlins, Logistics Manager from Volusia County Fire Services. Captain Rawlins advised that he was contacted on April 22, 2010, by his supervisor, Deputy Chief Frank Pocica in reference to an incident report dated April 21, 2010 that was received from the VCSO about medications found at the residence of FF/PM Giraldo on April 16, 2010. Captain Rawlins was instructed to contact Mrs. Giraldo and, if he was unable to make contact with her, he was to speak with FF/PM Giraldo. Captain Rawlins advised he was unable to contact Mrs. Giraldo so he went to Station 15 to speak with FF/PM Giraldo.

Captain Rawlins made contact with FF/PM Giraldo who advised him when he left his former residence (1443 Annapolis Drive) on April 16, 2010, after speaking with the VCSO, he returned to the station and destroyed the medications or placed them in a biohazard container at the station for destruction. Captain Rawlins stated that when he spoke with FF/PM Giraldo he did not indicate a second party being witness to FF/PM Giraldo discarding the medication. Captain Rawlins stated according to VCFS Policy (102.005), the procedure for waste and or

destroying of a controlled substance is to log the items that are to be wasted by listing the Lot # of the item and a witness is to be present during the disposal.

On the following day Captain Rawlins advised he spoke with Mrs. Giraldo who reported the medication she found was turned over to the VCISO and it was then given to FF/PM Giraldo and removed from the scene.

Captain Rawlins advised on the following Tuesday (April 27, 2010), he was contacted by Mrs. Giraldo who told him she had found additional supplies in a box and asked him if he would come and secure them and make sure they were disposed of properly. Upon his arrival at Mrs. Giraldo's home, he saw a box in the back of her vehicle. Inside the box was a white plastic grocery bag and inside of that was medication plus other IV tubing, IV syringes or syringes, needles and medication identified as morphine sulfate Lot # 036104. Captain Rawlins stated the morphine sulfate had the seal and was intact. He contacted the VCISO to have an incident report completed on the medications that were found. The VCISO maintained custody of the morphine and it was placed in to their evidence.

Captain Rawlins stated he assisted the VCISO with inventorying the items located at the residence and some of the items found had not expired as of that date. He then returned to his office and contacted Bound Tree Medical (VCFS vendor) by phone to see if it was possible for them to review VCFS purchase history to determine by lot number if VCFS had purchased medications. Captain Rawlins was advised by Bound Tree Medical that they would be able to assist and he then sent an email with the pertinent information and requested a reply.

On April 28, 2010, Ms. Stacey Price, Bound Tree Medical, responded to Captain Rawlins via email. She verified items that were purchased by VCFS. The following table summarizes the items inventoried and removed from the residence with known purchase history.

Lot #	Amount	Item	Purchased by VCFS
036104	1 ML vial of 10 MG	Morphine	Confirmed
OAPWH	2 ML Vials of 125 MG	Solu-Medrol	Confirmed
OADD7	2 ML Vials of 125 MG	Solu-Medrol	Confirmed
OATXP	2 ML Vials of 125 MG	Solu-Medrol	Confirmed
56-400-EV	2 ML syringes of 6 MG	Adenocard	Confirmed
61-128-DK	5 ML box	2% Lidocaine HCl	Confirmed
DE014E7	5 ML box 2%	2% Lidocaine HCl	Not confirmed
66-022-9D	10 ML syringes	9% Sodium Chloride injections	Not confirmed
73-047-9D	10 ML syringes	9% Sodium Chloride injections	Not confirmed
BE032G7	Box containing 1 ML -50 MG	Diphenhydramine Hydrochloride injections	Not confirmed
58085DD	1 ML vial 1 MG	Epinephrine	Confirmed
51210DD	1 ML vial 1 MG	Epinephrine	Confirmed

Captain Rawlins reported that there was no way to trace where the needles and syringes were purchased. However, he did indicate the type of syringes found were in the same packaging that is used by VCFS. Captain Rawlins stated the benadryl that was located at the residence was in EMS packaging which is not commonly purchased by the general public.

Captain Rawlins advised that while at the Giraldo residence with the VCSO deputy on April 27, 2010, Mrs. Giraldo also asked him if he would dispose of the medication that had been prescribed to FF/PM Giraldo's father during the time he was in the care of Hospice. He reported the medication was morphine in the suspension form and had a prescription attached to the box. Captain Rawlins reported he assumed control of the medication and properly disposed of the item.

Captain Rawlins reviewed the EMS Controlled Substance Discard Form (CSDF) dated March 24, 2008, that had been signed by now-retired Lieutenant Susan Whitlock and FF/PM Giraldo. He confirmed the form indicated that FF/PM Giraldo and now-retired Lieutenant Susan Whitlock discarded from the VCFS controlled substance inventory, 21-10mg/ml vials of Morphine, Lot # 036104, on March 24, 2008. Captain Rawlins verified this medication was purchased by VCFS. Further, he advised signing a division form stating an item has been destroyed and not destroying would be falsification of a record.

**Captain Charles Kamine** - On May 26, 2010, a sworn statement was provided by Captain Charles Kamine from Volusia County Fire Services (VCFS) who advised he was the EMS supply officer in 2008. Captain Kamine reported that it was common practice for VCFS to donate expired equipment and medications that were not controlled substances to Daytona State College (DSC). Captain Kamine indicated he knew that FF/PM Giraldo would transport the items to DSC. The items were not inventoried prior to donation.

Captain Kamine stated that a log is maintained for all controlled substances and when a controlled substance is wasted or discarded a second party must be a witness. Captain Kamine reviewed a VCFS EMS CSDF dated March 24, 2008, which contained his signature as the EMS Supply Officer. He confirmed the form was signed by FF/PM Giraldo and now-retired Lieutenant Susan Whitlock reporting the destruction of 21 10mg/ml vials of Morphine, Lot # 036104.

Captain Kamine advised the items being donated were supposed to be taken to DSC and he never gave FF/PM Giraldo permission to take items home. He stated he never gave FF/PM Giraldo permission to remove any controlled substance from VCFS.

On July 7, 2010, a second, follow-up interview was conducted with Captain Kamine to provide additional clarity. Captain Kamine advised FF/PM Giraldo

would transport expired supplies to DSC because he was stationed at Station 15 and was an instructor at the college. He indicated the transportation of supplies occurred when FF/PM Giraldo was not on duty. Captain Kamine reported on a couple of occasions he had delivered items to DSC.

Captain Kamine reported there was neither a designated drop-off area for the supplies that arrived at the training center nor were these items inventoried. The expired supplies would arrive sometimes when a battalion dropped them off, delivered by an engine crew, or had arrived via inter-departmental mail. When he received the supplies he would place them in a box labeled Daytona State College and placed in the EMS Supply room until transported to DSC. Captain Kamine again confirmed the items were not inventoried.

Captain Kamine advised that the morphine, Lot # 036104, was stored in the EMS Supply room prior to FF/PM Giraldo and now-retired Lieutenant Whitlock wasted the medication. Captain Kamine was not present when the medication was wasted.

**Daniel Jones** – On June 11, 2010, a sworn statement was provided by Mr. Daniel Jones who resides at 1445 Annapolis Avenue, Daytona Beach, Florida. Mr. Jones advised he resides next door to the Giraldo family and has known them for about three years.

Mr. Jones stated while mowing the yard on one occasion he became dehydrated and Mrs. Giraldo transported him to the station where FF/PM Giraldo was assigned to work on that date. While at the station he stated he was given an IV but did not identify who administered it. He did refuse transport to the hospital. Mr. Jones advised he did not remember signing any forms after he received treatment. Jones reported FF/PM Giraldo told him if he was still not feeling well the next day he could come by the house anytime and that he had what he needed to give him an IV at the house. Mr. Jones indicated he never went to FF/PM Giraldo's residence for any medical treatment.

Mr. Jones advised he had witnessed approximately 2½ dozen IV bags in the refrigerator located in the garage at FF/PM Giraldo's home and other medical items. He indicated some items were stored in the garage in a garbage bag. Further, FF/PM Giraldo told him he had "stuff" at the house that would help relieve the back pain Mr. Jones was experiencing. Mr. Jones stated FF/PM Giraldo did not elaborate on the medication he was offering to give him. He also stated FF/PM Giraldo told him that he would bring items home from the fire department that weren't completely used because there was no sense in throwing it away. He did not know to what type of items FF/PM Giraldo was referring.

Mr. Jones advised he was home on both occasions when the VCSO was summoned to the Giraldo residence. He did not have any first hand knowledge of



the events that transpired. He did advise Mrs. Giraldo told him her son got something out of the garage refrigerator that was glass and broke it on the floor.

**Patricia Maher** - On June 14, 2010, a telephone interview was conducted with Patricia Maher, EMS Program Manager at Daytona State College (DSC). Ms. Maher stated that it is common practice for the Volusia County Division of Fire Services to donate to DSC medical supplies and medications that are expired. Ms. Maher advised that DSC will accept expired medications that are not classified as a controlled substance by Florida Statute guidelines.

Further, Ms. Maher reported she will accept empty bottles of controlled substances to be used for training purposes at DSC. Ms. Maher advised if the controlled substance vial contains any liquid it will not be accepted.

On July 2, 2010, a sworn statement was provided by Ms. Maher at Daytona State College (DSC). Ms. Maher advised the procedures for accepting donated equipment were changed about 45 days ago. She advised the procedures were updated after receiving a copy of the Volusia County Sheriff's Department (VCSO) incident report associated with FF/PM Giraldo.

Prior to the recently updated procedure used by DSC for donation of items from county agencies and private agencies, DSC did not inventory equipment when it was brought to the EMS office. The items were accepted and placed into a secure location until the time was available to complete an inspection of the items and place equipment into use for training purposes. The procedure used by Ms. Maher now requires the individual who brings the equipment to DSC inventory and document the items on a DSC EMS Equipment Donation Log. Ms. Maher advised a staff member from DSC is present and witnesses the inventory as it is conducted and documented.

Ms. Maher advised VCFS has donated expired equipment to DSC at least since 2004 when she started her employment with DSC. The items are brought by VCFS about once every 3 to 4 months. The amount of equipment donated varies each time they are received. She advised three VCFS staff members who bring the equipment to DSC are adjunct instructors at DSC. Mike Inglett, George Sotos, and Ken Giraldo, instruct for the college and Charles Kamine who is not employed with DSC will also drop off items. Ms. Maher said the last supplies donated were on May 19, 2010, and were dropped off by George Sotos.

Ms. Maher advised FF/PM Giraldo was removed from the EMS schedule and will not be instructing until further review by DSC EMS department.

Ms. Maher stated the following agencies and businesses donate expired equipment to DSC: City of Orlando Fire Department, Daytona Beach Shores



Public Safety, Edgewater Fire Department, New Smyrna Beach Fire Department, Halifax Hospital, International Speedway Group, and Tampa General Hospital.

**Susan Whitlock (retired)** - Several attempts were made in an effort to contact former VCFS Lieutenant Susan Whitlock to obtain a sworn statement. On June 15, 2010, June 16, 2010, June 17, 2010, and June 18, 2010 a voice mail message was left at telephone number . On June 17, 2010, and June 18, 2010, I left a business card at , which is the last known residence of Ms. Whitlock. As of this date Ms. Whitlock has not contacted me.

**Paul Barbour** – On June 21, 2010, a telephone interview was conducted with FF Paul Barbour who was FF/PM Giraldo's partner on April 16, 2010. FF Barbour advised he stayed in the fire engine while FF/PM Giraldo spoke with the deputy. He stated that he did not witness FF/PM Giraldo in possession of any items after he had spoken with the deputy and did not witness him discard any items upon their return to the station. FF Barbour stated FF/PM Giraldo did not discuss the incident with him.

**Subject statement:**

**Kenneth Giraldo** – On June 4, 2010, a sworn statement was provided by FF/PM Giraldo who was accompanied by his union representative, FF/PM John Calache. FF/PM Giraldo reported he was called by VCSO Deputy Shirah and advised his wife had made claim that she had found some medications at his house. He stated his wife is living in the residence and he does not currently reside with her.

FF/PM Giraldo reported he received a call from the deputy while he was on duty who asked him to come to the residence. He went to his house ( ) which is located in the station's first due area. As senior FF/PM on duty at station 15 on April 16, 2010, he attempted but was unsuccessful in contacting his lieutenant who was not on duty that day. Without further supervisory notification, he advised dispatch his unit would be available for calls at a location out of the station. When he arrived the deputy had some opened and some expired drugs, and medicine vials. He only remembered one of the medications and said it was benadryl. FF/PM Giraldo reported he told the deputy the benadryl was unserviceable and unserviceable items are given to DSC as training equipment. The deputy gave him a bag full of items to include a vial of some empty saline locks, carpuejts in a glass vial, and he went back to the station and "wasted it like they always do." FF/PM Giraldo said his partner FF Paul Barbour probably witnessed him dispose of the medication.

According to FF/PM Giraldo, it is common practice for him to take expired equipment to DSC. He stated the items are usually packaged in a brown bag when he picks them up from VCFS and then transports them to DSC. He advised he does not inventory the items when he receives them and has taken bags full of supplies to his residence on occasion prior to transporting them to DSC. FF/PM Giraldo stated he had the lidocaine, sodium chloride, benadryl, catheters, IV bags, needles, and syringes in his residence for the purpose of taking them to DSC and these were not his personal items. FF/PM Giraldo testified he has never taken a controlled substance to DSC. FF/PM Giraldo stated he did not purchase the morphine found at his residence and if it belonged to VCFS he never knowingly transported it to his house.

FF/PM Giraldo stated he did not "knowingly remove" the vial of morphine from VCFS inventory to his residence. When FF/PM Giraldo was asked to give a reason as to why/how the named items were found at his residence, he responded, "I have some suspicions, part of it leans toward my divorce." Further, FF/PM Giraldo stated the supplies may be left over items from DSC. He also said he suspected his wife looked through the bags that were in the garage and, "took it out and used it to get me in trouble". He also said he thought his ex-wife and the person she is having an affair with set him up.

FF/PM Giraldo reviewed the VCFS EMS CSDF with Lot # 036104 listed as destroyed or discarded on May 24, 2008. He acknowledged signing this form along with witness Lieutenant Whitlock and agreed his signature indicated the items listed were destroyed or discarded in accordance with set procedures. FF/PM Giraldo stated the procedure used by him and Lieutenant Whitlock was to "sit in the kitchen at Training Center and put everything on the counter and shoot it into the sink."

FF/PM Giraldo did not provide any further explanation for the morphine, Lot # 036104, being found at his residence. FF/PM Giraldo denied falsifying a VCFS document and using any county items that were located in his garage for his personal use.

In a second interview conducted on July 6, 2010, FF/PM Giraldo advised he remembered Daniel Jones coming to Station 15 but was not sure of the date or the treatment was rendered. The only thing he did remember was that Jones was nauseated and threw up on him. He was unable to state with certainty that an EMS report was completed but advised that he did not see any reason that he would not have completed the report. FF/PM Giraldo advised he did not know who his partner was the day he treated Mr. Jones at station #15.

FF/PM Giraldo advised the only medical treatment he provided Mr. Jones while off duty was he removed a splinter from his finger and assisted when Mr. Jones' wife cut her leg. Also, he denied offering to provide any other medical treatment to

Mr. Jones or offering to provide him with medication. FF/PM Giraldo stated he has never had IV bags in his refrigerator.

FF/PM Giraldo advised the expired items he took to DSC to be donated would be picked up at Station 15. Normally the battalions would collect items from other fire stations to bring to Station 15 and some of the supplies were from Station 15. The supplies were either left in the bay area, hallway, or inside the station prior to him removing items to transport to DSC. He would take the bag of supplies to DSC on his days off. The supplies were not inventoried prior to being removed from Station 15 and no notations were made in the station log book. The supplies were not inventoried by DSC personnel while he was present. FF/PM Giraldo advised he was an instructor at DSC and that is why he would deliver the supplies.

FF/PM Giraldo reported the procedure used for discarding a controlled substance was to draw the substance from the vial into a syringe and shoot it down the sink with a witness present. When medication was destroyed in bulk the process was usually conducted at the sink located in the training center kitchen. The empty vials, along with the syringe and needle, were placed in a sharps container and a piece of tape was placed over the slot on the top of the container. The container was then taken to the collection container in the bay. The tape was used to ensure the items placed into the sharps container did not fall out.

**Investigative information:**

The VCFS Controlled Substance Log (CSL) inventory documents that morphine, Lot # 036104, was received by VCFS on January 9, 2008, and discarded by Lieutenant Whitlock and FF/PM Giraldo on March 24, 2008. A CSDF was submitted into evidence that illustrates on March 24, 2008, now-retired Lieutenant Whitlock and FF/PM Giraldo discarded 21 vials of 10mg/ml of morphine, Lot # 036104.

On April 16, 2010, FF/PM Giraldo submitted a report associated with the events that transpired on April 16, 2010. He wrote that he attempted to contact his supervisor, Lt. Heather Love, prior to leaving the station and travelling to his residence to speak with the deputy. FF/PM Giraldo wrote he did not speak with his supervisor and receive permission prior to leaving the station to conduct personal business. Ms. Lauren Gibbs, VCSO dispatch, reported there was a transmission from E15 calling in service for general detail on Fire 1 at 1904 hours.

On June 23, 2010, I contacted Mrs. Giraldo via telephone to inquire as to when she transported Mr. Daniel Jones to Station 15 for medical care. Mrs. Giraldo said she was not sure of the exact date but believed it to be during the spring or summer of 2008. Ms. Mary Bialecki, NFIRS Records Manager, for VCFS, researched all EMS reports for patient care during the year 2008 that involved

FF/PM Giraldo. She advised that no EMS patient care report was located in the 2008 records for a patient named Daniel Jones.

**Conclusion:**

Based on the information contained in the supporting documents to this investigation, the following are findings associated with the allegations:

**1. Unauthorized possession of a controlled substance – Sustained**

**Volusia County Merit System, Section 86-453 Reasons for disciplinary action (13)** *Any conduct, on or off duty, that reflects unfavorably on the county as an employer; and*

**Volusia County Fire Services Division SOG 102.005 Controlled Substance Accountability, Section III, Responsibility...***The on-duty paramedic is responsible for the care, custody, and documentation of all controlled substances assigned to his/her apparatus/units, and*

**Volusia County Fire Services Division SOG 102.005 Controlled Substance Accountability, Section IV, Procedure A.2. ...***The Controlled substances are not, at any time, to be stored in any location other than the ALS permitted units, and*

**Food and Drug Administration - TITLE 21 – Food and Drugs CHAPTER 13 – Drug abuse prevention and control SUBCHAPTER I - Control and Enforcement Part C - Registration of Manufacturers, Distributors, and Dispensers of Controlled Substances Sec. 829. Prescriptions -STATUTE-**  
*(a) Schedule II substances except when dispensed directly by a practitioner, other than a pharmacist, to an ultimate user, no controlled substance in schedule II, which is a prescription drug as determined under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et. seq.), may be dispensed without the written prescription of a practitioner, except that in emergency situations, as prescribed by the Secretary by regulation after consultation with the Attorney General, such drug may be dispensed upon oral prescription in accordance with section 503(b) of that Act (21 U.S.C. 353(b)). Prescriptions shall be retained in conformity with the requirements of section 827 of this title.*

**2. Falsifying documents - Sustained**

**Volusia County Fire Services Division SOG 102.001 General Rules, Section 100.009** *Members shall make no false official reports or knowingly enter, or cause to be entered in any department books, records or reports, any inaccurate, false or improper information, and*

**Volusia County Fire Services Division SOG 102.001 General Rules, Section 100.017** *Members shall be responsible for the completeness, accuracy and dispatch of all reports with which they are concerned.*

**3. Unauthorized removal of items from county property (misappropriation) - 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 (3)** *Willful misuse, misappropriation, negligence or destruction of county property or conversion of county property to personal use or gain.*

**4. Unprofessional Conduct – Sustained**

**Volusia County Merit System, Section 86-453 Reasons for disciplinary action (10)** *Incompetent or unsatisfactory performance of duties, and*

**Volusia County Fire Services Division SOG 101.003 EMS Report Documentation, Section II, Scope** *It is required that an EMS provider shall ensure an accurate and complete run report is prepared for each instance in which a patient is assessed.*

**5. Failure to notify supervisor prior to leaving duty station and**

**6. Unauthorized use of fire station apparatus – Sustained**

**Volusia County Division of Fire Services Division SOG 105.005 Non-Emergency Activities in District and Out of District, Section IV A** *Except for response to emergencies, fire apparatus shall not leave stations without the approval of the respective Battalion Commander. Apparatus and personnel will be approved to leave fire stations for department business only. Apparatus will not be utilized and station personnel (while on duty) will not engage in or conduct personal business outside the fire station, and*

**Volusia County Fire Services Division SOG 102.001 General Rules, Section 100.028** *Members shall not leave their quarters, fire ground, or duties assigned during working hours except as authorized by their Commanding Officer.*

**Concluding Statement:**



reports originated by the VCSO, statements were obtained internal to fire services which further prompted departmental direction to the internal affairs unit to initiate an investigation on May 3, 2010. At this time, FF/PM Giraldo was notified in writing that a complaint had been filed against him, and an investigation would be initiated.


The only delay in conducting this investigation involved the scheduling of personnel to take statements based on work schedules and locations, along with time required to transcribe these recorded statements.

Based on the information obtained during this investigation, supported by witness statements, and documents provided by Volusia County Fire Services Division and the Volusia County Sheriff's Department as indicated in Attachment 1, all allegations of misconduct presented herein are sustained.

This investigative report is submitted for review and action as deemed appropriate.

"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

  
Name (printed)