



Department of Public Protection

Report of Incident

TO: Terry Sanders, Director
Department of Public Protection

FROM: David Vanis, Captain
Public Protection Administration
Internal Affairs

DATE: May 15, 2018

SUBJECT: IA 2018-02, Officer Aaron D. Jenkins, Volusia County Beach Safety

References:

1. Miscellaneous memos.
2. Supervisor Inquiry authored by Captain Michael Berard (Dated February 14, 2018).
3. Miscellaneous memos
4. Picturelink "Disclaimer"
5. Officer Brad Warner interview transcript (Dated February 28, 2018).
6. Written description of incident authored by Ofc. Warner (Dated February 28, 2018).
7. Sergeant Frederic Urquhart witness interview transcript (Dated March 2, 2018).
8. Officer Aaron D. Jenkins subject interview transcript (Dated March 8, 2018).

Complaint:

Beach Safety Captain Mike Berard sent a supervisor inquiry to Director Manchester on February 14, 2018 detailing an incident involving Field Training Officer (FTO) Aaron D. Jenkins. The memo indicated Officer Trainee Brad Warner had witnessed Ofc. Jenkins using the social media application Snapchat to transmit a, public record exempt, image and images, or video, of Ofc. Warner while he was working.

Background:

On February 13, 2018, Officer Trainee Brad Warner reported to Beach Safety Captain Michael Berard his Field Training Officer (FTO) had been displaying behaviors he (Warner) thought may be inappropriate. Ofc. Warner explained that he was in the second phase of his field training program and was currently assigned to FTO Ofc. Aaron D. Jenkins.

Ofc. Warner explained he was working with Ofc. Jenkins on February 12, 2018 and had logged into the unit's mobile data computer (MDC) and associated law enforcement databases. While on patrol, Ofc. Warner watched Ofc. Jenkins log into the Volusia County Jail Images application and locate an old mug shot of current VCBS Captain Ethridge. Ofc. Warner explained Ofc. Jenkins then used his personal cell phone and took a picture of the screen utilizing the social media application Snapchat and sent the image to an unknown recipient(s). Ofc. Warner added he later overheard Ofc. Jenkins ask Sgt. Urquhart if he "saw that picture?" Sgt. Urquhart respond he had. Ofc. Warner added during that conversation, Ofc. Jenkins stated "whenever he feels down, he just looks at this." Ofc. Warner told Capt. Berard he was concerned because his login credentials had been used to log into the mobile data computer (MDC) and he may be in violation of some computer security policy as well as the unprofessional distribution of the image by his FTO. Ofc. Warner also advised Capt. Berard while he was on a traffic stop, Ofc. Jenkins had taken a video or picture of him using the Snapchat application and sent it to unknown recipients.

Ofc. Warner told Capt. Berard there was no conversation between him and Ofc. Jenkins regarding either of the Snapchat incidents and he never gave Ofc. Jenkins permission to send his picture or video. Capt. Berard prepared a memo and forwarded the aforementioned information to Director Manchester (Item 2). Dir. Manchester requested an internal investigation into these incidents on February 22, 2018 and I was subsequently directed to conduct the investigation on the same day.

Information:

While conducting research relating to this investigation, I logged into the Volusia County Jail Images website, also known as PictureLink. Prior to entering login information, a disclaimer appears on the screen. The disclaimer states "This Web Site is accessible only by law enforcement agencies and is not accessible by the general public." and "Information contained on this Web site may only be used for law enforcement purposes." This disclaimer was added to the case file as item 4.

I notified Ofc. Jenkins of this investigation on February 26, 2018 at Beach Safety Headquarters. He was also provided copies of Capt. Berard's memo and Law enforcement officers' and correctional officers' rights.

Ofc. Brad Warner:

I conducted a sworn and recorded interview with Ofc. Warner at the New Smyrna Beach Lifeguard Station on February 28, 2018.

Ofc. Warner advised he has worked for Beach Safety since 2008. He was promoted to Beach Safety Specialist (BSS) in 2012 and was promoted to Senior Lifeguard, or Beach Safety Officer in June 2017.

Ofc. Warner described the events on February 12, 2018 as previously described by Capt. Berard. He told me he was able to tell that Ofc. Jenkins was using Snapchat to either record a video or take a picture because he also uses the application for social media and sending pictures to friends and family. He added that many of the Officers at Beach Safety use Snapchat.

Ofc. Warner explained while he and Ofc. Jenkins were closing the beach to traffic, he watched Ofc. Jenkins log into Picturelink through the Mobilecom (CAD) feature on the MDC. He said Ofc. Jenkins was laughing when he was viewing a mug shot of Capt. Ethridge and pulls out his phone and sends a "snap." Ofc. Warner asked what the picture was and Ofc. Jenkins responded that it was a mug shot of Capt. Ethridge. Shortly after, they ran into Sgt. Urquhart and Ofc. Skinner on the beach. Ofc. Jenkins asked Sgt. Urquhart if he received the picture. Sgt. Urquhart responded "yes" and Ofc. Jenkins stated "That makes my day every time I see that picture." No other comments were made by Ofc. Jenkins or Sgt. Urquhart.

Ofc. Warner also told me on February 13, 2018, they were waiting on a tow truck to pick an impounded vehicle after a traffic stop and Ofc. Jenkins was "snapping" him (Ofc. Warner) while he was looking for paperwork in the back of the truck.

Ofc. Warner added during a traffic stop on February 13, 2018, Ofc. Jenkins "Spark tested" his Taser for two five second cycles. This did not occur in the presence of the public.

Prior to this interview, Ofc. Warner had prepared a written summary of these events and later emailed the summary to me. This interview was added to the case file as item 5 and the summary was added as item 6.

Sergeant Frederic Urquhart:

I conducted a sworn and recorded interview with Sgt. Urquhart on March 2, 2018 at Beach Safety Headquarters. Sgt. Urquhart has been employed by Beach Safety for sixteen years a supervisor for approximately three years. He has supervised Ofc. Jenkins since October 2017 and described him as "the best guy I have on shift right now." He explained he can count on Ofc. Jenkins handling any incident without much oversight.

Sgt. Urquhart told me he uses the Snapchat application. He advised he frequently uses it for communication with his friends and co-workers. He advised he does exchange "snaps" with Ofc. Jenkins. When asked if he received any "Snaps" about Ofc. Warner while he was training with Ofc. Jenkins, Sgt. Urquhart remembered receiving a picture or video of Ofc. Warner working on a report. He could not recall what comment may have been associated with the image or video. Sgt. Urquhart also remembered receiving a "snap" from Ofc. Jenkins containing a mug shot of Capt. Ethridge. He did not recall any comments associated with this image. Sgt. Urquhart advised he was not sure where Ofc. Jenkins would have retrieved the image and was not familiar with Public Records exemptions relating to law enforcement officer's mug shots. Sgt. Urquhart did not recall having a conversation with Ofc. Jenkins regarding the image nor did he ever counsel or discipline Ofc. Jenkins. Sgt. Urquhart told me "...it's one of those common knowledge things. I think everyone who works here has seen it at some point." Sgt. Urquhart agreed, in hindsight, that Ofc. Jenkins sending an eighteen year old booking image was not appropriate.

This interview was added to the case file as item 7.

Officer Aaron D. Jenkins:

I conducted a sworn and recorded interview with Ofc. Jenkins on March 8, 2018. Teamsters Business Agent Gary Conroy was also present for this interview. Prior to beginning the interview, Ofc. Jenkins and Mr. Conroy reviewed all associated documentation relating to this case.

Ofc. Jenkins told me he has worked for Beach Safety for approximately fourteen years. He was promoted to Senior Lifeguard (Beach Safety Officer) in 2011 and has been an FTO for less than a year. He told me Ofc. Warner was his second trainee after training Ofc. Contino, in this same training cycle.

Ofc. Jenkins confirmed he uses Snapchat for both personal use and work related communication. He added that he only uses the messaging feature of the application and his account is not open to the public, only other users he has selected. He explained Snapchat's messaging feature allows the sender of a short video or image selects the recipients and the amount of time the image or video is viewable by the recipient. This time can vary from an infinite amount of time to one second.

Ofc. Jenkins confirmed he sent a picture of Ofc. Warner to Ofc. Russell St. John. He explained the picture was Ofc. Warner in the back of the truck distracted by his cell phone. He further explained Ofc. St. John was Ofc. Warner's primary FTO. He told me he remembered sending at least one "Snap" to Ofc. St. John but it may have been more. Ofc. Jenkins described these action for training purposes but added he did not directly address the issue with his trainee, Ofc. Warner. He told me he addressed the training deficiency under the time management section in Ofc. Warner's daily observation report (DOR). When describing the picture or pictures he sent to Ofc. St. John of Ofc. Warner, Ofc. Jenkins described them as "a picture and it's been a work related picture sent to his primary officer."

Ofc. Jenkins confirmed he logged into the Picturelink application through Mobilecom. He told me he was showing Ofc. Warner how to use the application and explaining its possible uses in his law enforcement duties. He told me through the process of his explanation, he searched for Capt. Ethridge. When asked why he conducted this specific search, Ofc. Jenkins responded "I was trying to more explain to Officer Warner that conduct off duty can result in an arrest and you could possibly get terminated and things of that nature." He explained that he initially started explaining how to use the application and then transitioned into a conduct reminder. Ofc. Jenkins confirmed he took a "snap" of the mug shot and sent it to Sgt. Urquhart. He told me the "snap" only contained the picture and none of the demographic or charge information associated with the image. He denied sending it to anyone else. When asked why he would send the image, Ofc. Jenkins could not provide a specific reason but told me he was showing Sgt. Urquhart what he and Ofc. Warner were working on. Ofc. Jenkins acknowledged the Picturelink disclaimer and agreed he did not follow the disclaimer "to its full extent." Ofc. Jenkins did not recall making the statement "It makes my day every time I see that photo."

Ofc. Jenkins told me he did not specifically remember "spark" testing his Taser during a traffic stop but added that he frequently tests his Taser because the LCD display on the Taser does not function.

This interview was added to the case file as item 8.

Conclusion:

Officer Trainee Brad Warner met with Capt. Berard on February 13, 2018 and notified him that Ofc. Jenkins was using the social media application, Snapchat, to send images or videos or videos of him to unknown recipients. He also told Capt. Berard, Ofc. Jenkins had sent a "snap" of an eighteen year old mug shot of another Beach Safety employee to Sgt. Urquhart. This action caused Ofc. Warner to be

concerned because he believed this action may have violated computer security procedures due to the application used to obtain the mug shot.

An interview with Ofc. Warner on February 28, 2018 confirmed these allegations. During the interview, Ofc. Warner added he had observed Ofc. Jenkins “Spark test” his Taser twice while on a traffic stop.

An interview with Sgt. Urquhart on March 2, 2018 confirmed he had received a “snap” of the mug shot from Ofc. Jenkins. Sgt. Urquhart did not recall Ofc. Jenkins making any comments regarding this “snap.” Sgt. Urquhart remembered receiving another “snap” from Ofc. Jenkins during this time frame regarding Ofc. Warner’s training but did not remember the content of that image. In retrospect, Sgt. Urquhart acknowledged these “snaps” from Ofc. Jenkins were inappropriate but he did not take any corrective action at the time of occurrence.

During an interview with Ofc. Jenkins on March 8, 2018, he confirmed he sent pictures via Snapchat to Sgt. Urquhart and Ofc. St. John. He could not provide a reason for sending the mug shot image to Sgt. Urquhart but advised the pictures of Ofc. Warner were sent to Ofc. St. John as part of Ofc. Warner’s training process. He also advised he did not specifically remember “spark testing” his Taser while on a traffic stop, but admitted it was a possibility.

Findings:

This case was presented to Director Sanders, Deputy Director Bythwood, Deputy Director Swanson, and Manchester. Director Sanders determined that the allegations listed below are **sustained**:

Volusia County Merit Rules and Regulations, Sec. 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.

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

(9) Violation of privileged information or its use for private gain.

(13) Any conduct, on or off duty, that reflects unfavorably on the county as an employer.

HR Bulletin 19 Social Media Policy

Volusia County Beach Safety Policies and Procedures

11.01 I. Use of County Property. *Employees should not, directly or indirectly, use or allow the use of County property of any kind for other than official activities.*

11.01.43 Rumors and Gossip – *Employees shall not engage in or convey gossip detrimental to other employees, the general public, County, Division, or Office of the Director.*

11.01.130 Use of blogs, Web posting, Chat rooms, Social Networking Sites or other social media sites, by employees, are permitted but participation should be carefully considered for proper conduct.

14.08.39 *When acting as a training officer, The F.T.O. has the following duties.*



INTER-OFFICE MEMORANDUM
Department of Public Protection
125 W. New York Ave., Suite 183
DeLand, Florida 32720
386-740-5120 - FAX 386-626-6618

TO: Aaron D. Jenkins, Senior Lifeguard
Division of Beach Safety

FROM: Terry A. Sanders, Director
Department of Public Protection

SUBJECT: Notice of Suspension Without Pay

DATE: June 20, 2018

FILE NO: DPP18-073

REFERENCE: DPP18-067 Notice of Intent to Suspend Without Pay and IA 2018-02

COUNTY OF VOLUSIA
JUN 21 2018
DEPT. OF PUBLIC PROTECTION

Purpose: The purpose of this memorandum is to provide notice of your suspension without pay for one (1) twelve (12) hour shift and to revoke your status as a Field Training Officer for a period of one year. Per the Volusia County Beach Safety Departmental Standards Directive, Field Training Program, Requirements, Sec. 14.08.41, after a period of one (1) year you may be eligible to re-apply. This action is the result of your violation of County Policies and Procedures and Division Directives. The date of your suspension without pay will be Wednesday, July 11, 2018. You will return to work on Thursday, July 12, 2018. The one (1) year revocation of your Field Training Officer status will begin on Saturday, June 16, 2018 and will sunset on Saturday, June 15, 2019.

You received my notice of intent to suspend you without pay on May 22, 2018. You contacted my office on May 23, 2018, requesting to meet. On May 29, 2018, you and I met in the Public Protection Administration conference room. Also in attendance were Deputy Director Patricia Bythwood, Deputy Director Mark Swanson and Division Director Raymond Manchester. You elected not to bring a representative to the meeting.

In our meeting you took responsibility and apologized for your actions on February 12, 2018. We discussed the information provided in the internal investigation report and your role as a Field Training Officer. After speaking with the Deputy Directors and Division Director Manchester and taking into consideration what was discussed in our meeting, I have decided to reduce your suspension from two (2) twelve (12) hour shifts to one (1) twelve (12) hour shift. The suspension is to be served as stated above, and the revocation of your Field Training Officer status for a period of one year revocation as outlined above. You are also advised that there shall be no voluntary overtime allowed in the pay period to make up the time.

Background: On February 13, 2018, Officer Trainee Brad Warner reported to Beach Safety Captain Mike Berard his Field Training Officer (FTO) had been displaying behaviors he (Warner) thought may be inappropriate. Ofc. Warner explained that he was in the second phase of his field training program and was currently assigned to you, FTO Ofc. Aaron D. Jenkins.

Ofc. Warner explained he was working with Ofc. Jenkins on February 12, 2018, and he (Ofc. Warner) had logged into the unit's mobile data computer (MDC) and associated law enforcement databases. While on

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patrol, Ofc. Warner watched Ofc. Jenkins log into the Volusia County Jail Images application and locate an old mug shot of current Volusia County Beach Safety (VCBS) Captain Andrew Ethridge. Ofc. Warner explained Ofc. Jenkins then used his personal cell phone and took a picture of the screen utilizing the social media application "Snapchat" and sent the image to an unknown recipient(s). Ofc. Warner added he later overheard Ofc. Jenkins ask Sgt. Frederic Urquhart if he "saw that picture?" Sgt. Urquhart responded that he had. Ofc. Warner added during that conversation, Ofc. Jenkins stated "whenever he feels down, he just looks at this." Ofc. Warner told Captain Mike Berard he was concerned because his (Ofc. Warner's) login credentials had been used to log into the mobile data computer (MDC) and he may be in violation of some computer security policy as well as the unprofessional distribution of the image by his FTO. Ofc. Warner also advised Capt. Berard while he was on a traffic stop, Ofc. Jenkins had taken a video or picture of him (Ofc. Warner) using the "Snapchat" application and sent it to unknown recipients.

Ofc. Warner told Capt. Berard there was no conversation between him and Ofc. Jenkins regarding either of the "Snapchat" incidents and he never gave Ofc. Jenkins permission to send his picture or video. Capt. Berard then forwarded the aforementioned information to Director Ray Manchester who then requested an internal affairs investigation into these incidents on February 22, 2018.

Violations: Your actions on February 12, 2018, violated the Volusia County Merit System Rules and Regulations and the Division of Beach Safety Directives.

Volusia County Merit System Rules and Regulations—Division 13 Disciplinary Actions Sec. 86-453
Reasons for disciplinary action (2), (3), (8), (9) and (13):

86-453:

- (2) *Disregard for ... departmental policies and regulations, including safety rules.*
- (3) *Willful misuse, misappropriation, negligence or destruction of county property or conversion of county property to personal use or gain.*
- (8) *Criminal, dishonest or other conduct which interferes with effective job performance or has an adverse effect on the efficiency of county service.*
- (9) *Violation of privileged information or its use for private gain.*
- (13) *Any conduct, on or off duty, which reflects unfavorably on the county as an employer.*

HR Bulletin 19 Social Media Policy:

This document was last signed by you on March 4, 2016, (signed copy on file with Human Resources).

Volusia County Beach Safety Departmental Standards Directive, Standards of Conduct, Sec. 11.01- I, 11.01.43, 11.01.130:

- 11.01 - I. Use of County Property.** *Employees should not, directly or indirectly, use or allow the use of County property of any kind for other than official activities.*

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11.01.43 Rumors and Gossip- Employees shall not engage in or convey gossip detrimental to other employees, the general public, County, Division, or Office of the Director.

11.01.130 Online Conduct - Use of blog, Web posting, Chatrooms, Social Networking Sites or other social media sites, by employees, are permitted but participation should be carefully considered for proper conduct.

Volusia County Beach Safety Departmental Standards Directive, Field Training Program, Duties and Responsibilities of the FTO, Sec. 14.08.39:

14.08.39 When acting as a training officer, the FTO has the following duties:

Being a Good Role Model- As mentioned in the Supervisor's duties, the FTO must be a positive role model. This is done by maintaining a professional demeanor and appearance, adhering to rules and regulations, having a positive attitude toward the Department, program, job, and the trainee.

Volusia County Beach Safety Departmental Standards Directive, Chapter 34 Records, Computer Hardware and Software, Sec. 34.08.32:

34.08.32 Authorized Use - The Volusia County Computer System shall be used for day-to-day county business. The county administration does authorize with the consent of the Department Director for incidental and occasional personal use of the county computer system. At no time shall the personal use of the system impede official business. (See Directive 34.08.22 other restrictions). (CFA 32.01)

Conclusion: Accordingly, and based on the Internal Affairs investigation conducted by Captain David Vanis, close review of the events surrounding your actions on February 12, 2018, and in consideration of the conversation in our meeting on May 29, 2018, I have decided to reduce your suspension from two (2) twelve (12) hour shifts to one (1) twelve (12) hour shift and uphold the revocation of your Field Training Officer status. The date of your suspension without pay will be Wednesday, July 11, 2018. You will return to work on Thursday, July 12, 2018. There shall be no voluntary overtime allowed in this pay period to make up the time lost for your suspension without pay. The one (1) year revocation of your Field Training Officer status will begin on Saturday, June 16, 2018 and will sunset on June 15, 2019. Per the Volusia County Beach Safety Departmental Standards Directive, Field Training Program, Requirements, Sec. 14.08.41, after a period of one (1) year you may be eligible to re-apply.

You have been a County employee with Beach Safety for approximately 14 years. You should be aware of the policies and the law and yet violated the policies previously mentioned in this memo. To your credit, when contacted by the Internal Affairs Investigator regarding this matter, you cooperated fully.

Continuation of this behavior is detrimental to the standards of professionalism expected from Beach Safety personnel. Your conduct in this matter was unacceptable, sets an extremely poor example, and unfavorably reflects on the Division of Beach Safety and Volusia County Government. As a County employee for fourteen years, you should be aware of County and Division policy, as well as the law regarding matters such as this, and are responsible as a County employee not to violate same. You are advised that any continued adverse performance will result in more severe disciplinary actions to include dismissal. If there is anything that I or Division Director Ray Manchester can do to assist you to improve performance, please let me know.

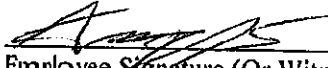
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Action: In accordance with section 86-485 (d) (2) of the Merit System Rules and Regulations, you have ten (10) working days from receipt of this notification (or effective date of the suspension) to appeal this action through the Volusia County Merit System Rules and Regulations. You must submit your written request for appeal to the County Human Resources Office, 230 N. Woodland Blvd. Suite 262, DeLand, FL 32720. Please see Section 86-485 of the Volusia County Merit System Rules and Regulations that outlines the appeal procedures.

If you do not file your appeal by the time stated herein, it will be assumed that you have waived this right.

Pursuant to Volusia County Merit System Rule Section 86-455, the Volusia County Legal Department and Human Resources Director have reviewed and concur with this action.

I certify that I have read this notification and acknowledge receipt of the original copy.



Employee Signature (Or Witness, if Employee Refuses to Sign)

06/20/2018
(Date of Signature)

TS/tab

- cc: Patricia Bythwood, Public Protection Deputy Director
 Mark Swanson, Public Protection Deputy Director
 Ray Manchester, Beach Safety Div. Director
 Tom Motes, Human Resources Director
 Joseph Pozzo, Human Resources Assistant Director
 Tammy King, EEO Coordinator
 Charles Hargrove, Deputy County Attorney
 Michael Moore, Assistant County Attorney

