



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: June 6, 2018

SUBJECT: IA 2018-04, Sergeant Bryon White, Volusia County Beach Safety

References:

1. Deputy Chief Aaron V. Jenkins memo to human resources (Dated January 4, 2018).
2. Deputy Chief Jenkins interview transcript (Dated January 22, 2018).
3. Hard drive and analysis for Sergeant's Office PC (L09511).
4. Hard drive and analysis for Processing Room PC (L09234).
5. Automated vehicle location (AVL) data.
6. SpyAgent monitoring software data for date range of March 21, 2018-April 4, 2018.
7. Processing room video surveillance from New Smyrna Beach Lifeguard Station from March 28, 2018 at 1254 hours through April 16, 2018 at 0930 hours.
8. Deputy Chief Elizabeth Driskell interview transcript (Dated April 19, 2018).
9. Officer Thomas McGibeny interview transcript (Dated April 19, 2018).
10. Deputy Chief Jenkins follow up interview transcript (Dated April 23, 2018).
11. Officer Christopher Hatton interview transcript (Dated April 23, 2018).
12. Officer Brian Teeters interview transcript (Dated April 23, 2018).
13. Beach Safety Specialist Eric Gutierrez interview transcript (Dated April 23, 2018).
14. Officer Philip Field interview transcript (Dated April 23, 2018).
15. Beach Safety Specialist Lee Tremel interview transcript (Dated April 23, 2018).
16. Officer Arthur Gendreau interview transcript (Dated April 23, 2018).
17. Captain Tammy Malphurs interview and follow up interview transcripts (Dated April 24 & 25, 2018).
18. IT Micro-analyst Jolene Baiardo interview transcript (Dated May 2, 2018).
19. Internet browsing history from L09234 and L09511.
20. IT Desktop Analyst Ronald Goodenough interview transcript (Dated May 4, 2018).
21. Hard drive and analysis for Vehicle 4E laptop (L07259).
22. Sergeant Bryon White Subject interview transcript (Dated May 7, 2018).
23. Documentation provided by Sergeant White.
24. Computer Forensics, LLC Examination report (Dated May 28, 2018).

Background:

On January 4, 2018, Deputy Chief Aaron V. Jenkins submitted a memo (Item 1) to Human Resources alleging he was the victim of harassment and hostile work environment by Sgt. Bryon White. DC Jenkins advised in his memo that he conducted an informal exit interview with former Beach Safety Specialist Brian Brocious on December 28, 2017. During this interview, Brocious told DC Jenkins of several derogatory statements Sgt. White had made toward him. DC Jenkins stated Brocious told him he “observed Sgt. White, on multiple occasions, conducting the private business of his tea company while utilizing county equipment, on county time, which he described as detrimental to the functionality of the daily operation...” Due to the nature of the allegations contained in DC Jenkins memo, Director Sanders requested HR Manager Tammy King and I conduct an interview with DC Jenkins.

HR Manager King and I interviewed DC Jenkins on January 22, 2018 (Item 2) at Public Protection Administration. DC Jenkins described the alleged derogatory and/or threatening statements made by Sgt. White toward him and the employees who advised him of these statements. DC Jenkins explained Sgt. White was the owner of a business named “Yaupon Bros. Tea.” DC Jenkins described the exit interview with Brocious who told him Sgt. White “spends way too much time in the station” and works on his tea business using county owned computers, printers, and other equipment. DC Jenkins told us he had not verified the equipment usage for personal business but believed it was being addressed by Dir. Manchester and DC Driskell.

Based upon the information received in DC Jenkins original memo on January 4, 2018 and the interview on January 22, 2018, it was determined there was no basis for further investigation regarding the harassment complaint. I was directed to conduct further inquiry into the allegation Sgt. White was using county equipment for his personal business.

On February 24, 2018, Deputy Director Swanson and I met with Information Technology (IT) Analysts Jolene Baiardo and Ron Goodenough to request they examine the PCs at New Smyrna Lifeguard Station, where Sgt. White has been assigned for more than a year. On February 28, 2018, IT staff removed and replaced the hard drives from the two desktop computers at the lifeguard station. A review of Sgt. White’s profile (BAWhite) on the hard drives revealed several documents relating to his tea company on both hard drives. These documents include shipping labels, permit applications, USDA grant applications, “Yaupon Brothers American Tea Co.” Shopify dashboard, and what appear to be marketing pictures/images. A detailed list of these documents is attached to this memo. IT advised internet browsing history may be available if they were to change Sgt. White’s login password. The hard drives and associated analysis were added to the case file as items 3 and 4.

On March 5, 2018, the aforementioned information was presented to Dir. Sanders, Deputy Director Swanson, Deputy Director Bythwood, Human Resources, and County Legal staff. During the meeting, it was determined that PC monitoring software should be installed on the lifeguard station’s computers to monitor Sgt. White PC usage to determine if the documents located were an isolated incident or an ongoing issue.

On March 12, 2018, I conducted a search of Sgt. White’s automatic vehicle location (AVL) system installed in his Beach Safety Patrol vehicle for the past twelve months. Sgt. White’s tea company address

is listed as 1814 Fern Palm Dr., Edgewater. His AVL shows him stationary at this location on the following dates:

- *September 6, 2017 from 1516-1521 hours CAD status Unassigned*
- *September 15, 2017 from 1642-1649 hours CAD status Unassigned*
- *December 18, 2017 from 1605-1620 hours CAD status Unassigned*
- *February 3, 2018 from 1647-1654 hours CAD status Unassigned*
- *February 8, 2018 from 1647-1654 hours CAD status Unassigned*
- *April 4, 2018 from 1607-1622 CAD status Out. CAD notes indicate his Out status was located at Southern Paint and Wallpaper at 605 S. Dixie Freeway, New Smyrna Beach*

At the time of this inquiry, it was unknown if Sgt. White received permission from a supervisor to go to his warehouse for any of these instances but his CAD status is shown "Unassigned." The area of 1814 Fern Palm Dr. is not located near Beach Safety's jurisdiction. All AVL data was added to the case file as item 5.

On March 20, 2018, IT Analysts installed PC monitoring software on the two desktop computers located in the New Smyrna Beach Lifeguard Station. The software was set up to only monitor Sgt. White's profile (BAWhite) and logged periodic screenshots, websites visited, and applications used on this profile. The software saved this data on a network drive only accessible to the IT Analyst, Deputy Director Swanson, and I.

A review of the screenshots taken by the monitoring software indicated Sgt. White used the computer for Beach Safety related functions like county email and report writing. The screenshots also indicate he was using the county computers to access his company's Gmail account, Quickbooks account, and checking account. They also indicate he created and emailed invoices, took orders for Yaupon Bros. Tea products, and completed applications for permits and certifications for his company. On April 5, 2018, IT removed the monitoring software from both computers. The Supervisor's office computer is labelled PC1 and the Processing Room computer is labelled PC2. The monitoring software was downloaded to disk and added to the case file as item 6. The following is a summary of what was viewed in the screen capture during the monitoring of the two computers at New Smyrna Beach Lifeguard Station for user "BAWhite":

- March 21, 2018 from 0905-0933 hours on PC1- Groupwise email and Telestaff roster.
- March 21, 2018 from 1726-1740 hours on PC2- Volusia County Beach Safety Incident report (BC180000365) completed by Sgt. White.
- March 21, 2018 from 1826-1855 hours on PC1- "Customs Power of Attorney and Acknowledgement of terms and conditions" fillable PDF accessed as well as the addendum to this form. Form filled out indicating it is for "Yaupon Brothers LLC." Bryon White is listed on the form as the CEO.
- March 22, 2018 from 0857-0900 hours on PC2- REOAmerica (Real estate) website viewed.
- March 22, 2018 from 1029-1046 hours on PC2- Google search for "irs ss4." Form IRS SS-4 fillable PDF form completed. Yaupon Brothers LLC listed as legal name of entity. Bryon White listed as "Responsible Party." Yaupon Brother Gmail account viewed message from Elivia Els from Wileys Finest inquiring about an order.
- March 22, 2018 from 1802-1830 hours on PC2- intuit Quickbooks login for

yauponbrothers@gmail.com. Invoice created for Wiley's Finest LLC balance due listed as \$10,387. "Bryon" listed as sales rep. Google search for "Convert pound to dollar." Several Yaupon Brothers LLC Quickbooks pages viewed.

- March 25, 2018 from 0753-0822 hours on PC2- Groupwise email and Telestaff roster viewed. My Daytona State webpage logged into by zach_strang@daytonastate.edu. A quiz was taken on the DSC online system. It should be noted that Zachary Strang is a VCBS officer who was assigned to this Station on this date.
- March 25, 2018 from 1148-1154 hours on PC2- Youtube video "Talking Heads Slippery People" viewed.
- March 26, 2018 from 1409-1514 hours on PC2- Yaupon Brother Quickbooks log in. Bradley Douglas added as a Quickbooks user for this account. Check detail for Yaupon Brothers LLC viewed in Quick books. Suntrust online page viewed. Password reset viewed, name listed as Bryon White. Suntrust account detail viewed. Several checks from "Yaupon Brothers LLC Operating Account" viewed. Yaupon Brothers Gmail account viewed. Email sent to Kyle White with Quickbooks check detail attached.
- March 26, 2018 from 1749-1754 on PC2- Bryon White Gmail account viewed. Email thread titled New Customer Message discussing quantities of tea for an order. It appears this email thread is related to the Yaupon Brothers American Tea Co. Shopify account.
- March 27, 2018 from 1517-1552 hours on PC1- FDA industry systems webpage viewed. Online FDA account/certificate application for Yaupon Brothers LLC with Bryon White shown as the CEO. Yaupon Bros Gmail account accessed. Florida Department of Agriculture and Consumer Services webpage viewed. Yaupon Brothers Gmail account viewed with an image of an Edgewater Utilities statement for 1814 Fern Palm Dr., Edgewater. Food Safety Inspection report for Yaupon Brother LLC viewed. Yaupon Brother Gmail account viewed. Email from Shopify with message that reads "When you get the Lavender Coconut Tea would you send us 3 of the tea. Thank you so much." Bing search for "look up food facility florida." FWC webpage "Annual Food Permit" viewed. Florida Department of Agriculture and Consumer Services page searched for "food permit." Florida Department of Agriculture and Consumer Services Division of Food Safety inspection report for Yaupon Brothers LLC viewed.
- March 30, 2018 from 1711-1725 on PC2- Volusia County Beach Safety Incident report (BC180000407) completed by Sgt. White.
- March 30, 2018 from 1827-1836 hours on PC1- Black screen and nothing viewed.
- April 1, 2018 from 0829-0858 on PC1- Youtube.com viewed. Appears to be music (Talking heads, Dire Straits, Pink Floyd, Fleetwood Mac, Bon Iver videos shown).
- April 4, 2018 from 0901-0912 hours on PC2- Google documents accessed and QCS (Quality Certification Services) forms viewed. Brand names listed in the forms include Starwest, Nature's Flavors, and Yaupon Brothers. They appear to be related to Organic Product Certification. Starwest Botanicals webpage is viewed. The QCS forms are viewed as an attachment in an email to QCS Certification Reviewer Xinyue Wang from the Yaupon Brothers Gmail account.
- April 4, 2018 from 1101-1155 hours on PC2- Google documents page viewed. Appears to be sharing the QCS organic profile forms with another user. Entering data on the QCS forms. Starwest Botanicals webpage viewed. Email viewed or composed from "Bryon White and Kyle White Co-founders Yaupon Brothers Tea" to Xinyue Wang titled Starwest Organic Cert. Proforma invoice templates searched. Proforma invoice created or viewed. Shipper listed as "Bryon White, Yaupon Brothers LLC" and the receiver is listed as "Wiley's Finest UK." Print screen viewed for the Proforma Invoice. Packing slip template searched. Packing slip viewed in Excel program. Items listed in packing slip include several yaupon Teas. Packing slip header is from Yaupon Brothers LLC. The

- “bill to” and “ship to” sections both list Wiley’s Finest UK.
- April 4, 2018 from 1501-1525 hours on PC2- Yaupon Brothers Shopify account page viewed. Bryon White Suntrust Simple Business Checking account viewed. Email sent from “Bryon White and Kyle White Co-founders Yaupon Brothers Tea” to Bryon White. Email attachments listed as “Proforma invoice template calculates total (1).xls and “packing slip.xlsx.”
- April 4, 2018 from 1935-1942 hours on PC2- Volusia County Beach Safety Incident report (BC180000344) completed by Sgt. White. Groupwise email accessed. RMS report approval accessed.

I attempted to download video surveillance from the camera located above the processing room desk to confirm what was viewed, and who was viewing, the screen captures listed above. I was unable to download individual videos due to connection problems with the video recorder located in the New Smyrna Beach Lifeguard Station. Information Technology was able to remove the video recorder and provide video from the processing room from March 28, 2018 at 1254 hours through April 16, 2018 at 0930 hours. This video was added to the case file as item 7. The video confirms Sgt. White was using the processing room computer for all instances on PC2 listed above between March 30, 2018 and April 4, 2018. In addition, Sgt. White is seen on the surveillance video using the computer on the following dates and times:

- 4/10/2018 from 1513-1533- Based upon past pages viewed, it appears Sgt. White logged into Quickbooks and Gmail.
- 4/10/2018 from 1815-1900- Based upon past pages viewed, it appears Sgt. White logged into the Groupwise email application for the first 8 minutes. Gmail and Quickbook were utilized. At 1829 hours, Sgt. White points at some information on the Quickbooks page to Ofc. Field. Sgt. White views several other pages that contain images but the origin has not been verified.
- 4/13/2018 from 0834-0902- Sgt. White is on the computer but the screen is not viewable by the surveillance camera.
- 4/13/2018 from 1230-1321- Sgt. White is seen viewing several documents of unknown origin on the computer. He then writes a memo on Volusia County letterhead.
- 4/15/2018 from 1624-1633- Sgt. White views weather radar images.

On April 19, 2018 I was directed to conduct a formal internal investigation into Sgt. White’s actions.

Another review of Sgt. White’s AVL data showed that his vehicle stopped at his office location at 1814 Fern Palm Dr., Edgewater on April 4, 2018 from 1607-1622 hours.

Deputy Chief Elizabeth Driskell:

I conducted a sworn and recorded interview with Deputy Chief Driskell on April 19, 2018 at Beach Safety Headquarters. DC Driskell is the Administrative Deputy Chief and Sgt. White is not in her direct chain of command. However, she often fills in as the Operations Deputy Chief when DC Jenkins is not on duty. She was previously aware that Sgt. White owned and operated a tea company with his brother.

DC Driskell told me she has never given Sgt. White permission to leave his assigned work area to work on his private business nor has he ever requested the same. Sgt. White has not asked her permission to

work on his tea company while he was on duty. DC Driskell has heard from other employees that Sgt. White works for his tea company while on duty at Beach Safety. She could not recall who told her this but believed it was Ofc. Foley. She added the person who reported this to her did not have any firsthand knowledge of the allegation. She also told me former BSS Brian Brocious had advised DC Jenkins that Sgt. White does work for his tea company while on duty at VCBS.

When asked if she had any other pertinent information to add to this investigation, DC Driskell told me shortly after Sgt. White was promoted to a supervisor position (2015), she had viewed a county email or listened to Sgt. White's county cell phone voicemail that indicated he was a Beach Safety Captain as well as the owner of "Yaupon Bros. Tea." She could not recall if it was an email signature or his voice mail but does recall addressing the issue with Sgt. White. She told me once she told Sgt. White he could not affiliate his business with his county employment, he immediately corrected the action.

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

Officer Thomas McGibeny:

I conducted a sworn and recorded interview with Ofc. McGibeny on April 19, 2018 at Beach Safety Headquarters. Ofc. McGibeny currently works the night shift but worked on Sgt. White's shift in New Smyrna Beach from October 2017-January 2018. Ofc. McGibeny was previously aware that Sgt. White owned and operated a tea business.

Ofc. McGibeny told me he has not seen Sgt. White working on his tea business using county equipment. However, he estimated that Sgt. White spent two to three hours a day at the New Smyrna Beach Lifeguard station. While in the station, Sgt. White was in the Sergeant's office with the door closed so he could not see what Sgt. White was working on. Ofc. McGibeny told me, on three occasions while he was on Sgt. White's shift, he witnessed people dropping off large mesh bags of tea leaves to Sgt. White at the lifeguard station. He described the bags as yellow mesh bags nearly the size of a trash bag containing what he believed were tea leaves. He did not know the identities of the people dropping off the leaves and did not observe an exchange of money for the leaves. He told me other people from the shift also witnessed the exchange but could not recall who. When asked if he reported these incidents to a supervisor, Ofc. McGibeny told me he didn't think much of it at the time.

This interview was downloaded to CD and added to the case file as item 9.

Deputy Chief Aaron V. Jenkins:

I conducted a follow-up interview with DC Jenkins on April 23, 2018 at Beach Safety Headquarters. DC Jenkins reiterated what he was told by former BSS Brian Brocious. He added that BSS Brocious had advised him that Sgt. White had utilized the county computers and printers to conduct work for his tea company. BSS Brocious did not advise of specific times and dates Sgt. White used this equipment for his personal business.

DC Jenkins told me he has never given Sgt. White permission to leave his assigned work area to work on his private business nor has he ever requested the same. Sgt. White has not asked his permission to work on his tea company while he was on duty. DC Jenkins advised BSS Brocious was the first and only person to tell him Sgt. White was working on his personal business while on duty for Beach Safety.

When asked if Sgt. White would have any reason to be in the city of Edgewater, DC Jenkins told me Beach Safety towers and signs are stored during the off season at a Road and Bridge compound located on Mango Tree Dr. just south of Park Avenue in Edgewater. He also added that the Beach Safety Rescue Boat is sometimes serviced at a location on US1 south of Edgewater. It should be noted that neither of these locations are near 1814 Fern Palm Dr., Edgewater.

This interview was downloaded to CD and added to the case file as item 10.

Officer Christopher Hatton:

I conducted an interview with Ofc. Hatton at the New Smyrna Beach Lifeguard Station on April 23, 2018. Ofc. Hatton told me he has been assigned to the NSB Station for approximately four months and has worked for Sgt. White during that time.

Ofc. Hatton was aware that Sgt. White is the owner of a tea company. He told me he has not seen Sgt. White using any of the county computers for the tea company. He did tell me he has seen Sgt. White load or unload a large box of tea from his personal vehicle. He estimate the box was either 3'x3' or 3'x2'. Ofc. Hatton told me he remembered an older male stopping by the station and talking to Sgt. White about some logo. He was not sure if the logo pertained to the tea company or not. Ofc. Hatton advised that he has overheard Sgt. White talking on his personal phone about the tea business approximately once per week and specifically mentioned shipments and boxes.

This interview was downloaded to CD and added to the case file as item 11.

Officer Brian Teeters:

I conducted an interview with Ofc. Teeters at the New Smyrna Beach Lifeguard Station on April 23, 2018. Ofc. Teeters told me he has been assigned to the NSB Station for approximately a month and has worked for Sgt. White during that time.

Ofc. Teeters was aware that Sgt. White was the owner of a tea company. He advised he overheard Sgt. White of the phone talking about his tea company approximately two weeks prior to this interview. He could not recall the exact conversation and did not know who Sgt. White was talking with. Other than the one phone call, Ofc. Teeters has never seen Sgt. White work on his tea business while on duty.

This interview was downloaded to CD and added to the case file as item 12.

Beach Safety Specialist Eric Gutierrez:

I conducted an interview with BSS Gutierrez at the New Smyrna Beach Lifeguard Station on April 23, 2018. BSS Gutierrez told me he has been assigned to the NSB Station since January and has worked for Sgt. White during that time.

BSS Gutierrez was aware that Sgt. White was the owner of a tea company. He told me he has overheard Sgt. White on the phone discussing his business approximately one time per week since he has worked for him. BSS Gutierrez told me Sgt. White spends approximate two to three hours a day on the computer or phone at the Lifeguard Station. He has seen Sgt. White working on the tea business using the station's computers. BSS Gutierrez told me Sgt. White showed him a document, he believed was some sort of

legal document, listing the tea's ingredients. He could not provide a better description of the document. BSS Gutierrez also told me approximately one month ago, Sgt. White took a case of tea (Box approximately 18"x12") to a person parked on Columbus Avenue across the street from the Lifeguard Station. BSS Gutierrez added that he did not see any money exchange and was not sure if Sgt. White was selling the tea or giving it away.

This interview was downloaded to CD and added to the case file as item 13.

Officer Philip Field:

I conducted an interview with Ofc. Field at the New Smyrna Beach Lifeguard Station on April 23, 2018. Ofc. Field told me he has been assigned to the NSB Station since the end of October 2017 and has worked for Sgt. White during that time.

Ofc. Field was aware that Sgt. White owned a tea company. Ofc. Field has, in the past, seen Sgt. White view and print, what he believed were, invoices from his company on the station's computer and printers. Ofc. Field added that Sgt. White has left his company's Gmail account open on the mobile data computer (MDC) in unit 4E. Ofc. Field could not provide any dates or times for the incidents described above but they had occurred since he was working on this shift.

This interview was downloaded to CD and added to the case file as item 14.

Beach Safety Specialist Lee Tremel:

I conducted an interview with BSS Tremel at the New Smyrna Beach Lifeguard Station on April 23, 2018. BSS Tremel told me he has been assigned to the NSB Station for since November and has worked for Sgt. White during that time.

BSS Tremel was aware that Sgt. White owned a tea company. He told me he has seen Sgt. White on one of the station computers looking at what he described as containers for tea and houses for sale. BSS Tremel also told me he has overheard Sgt. White talking to his brother, Kyle White, about the business. It should be noted that Kyle White is also involved in the tea business as well as a Beach Safety Seasonal Lifeguard.

This interview was downloaded to CD and added to the case file as item 15.

Officer Arthur Gendreau:

I conducted an interview with Ofc. Gendreau at the New Smyrna Beach Lifeguard Station on April 23, 2018. Ofc. Gendreau told me he is currently assigned to the night shift and comes on duty at the end of Sgt. White's shift. He told me he has been on night shift for approximately eight months and was on Sgt. White's shift prior to that.

Ofc. Gendreau was aware that Sgt. White owned a tea company. He advised that he has seen him working on the tea company when he worked on Sgt. White's day shift but not since he's been on nights. Ofc. Gendreau told me he has seen Sgt. White using the station's computers for work related to the tea company but could not provide specific details. When asked, he told me he has seen Sgt. White print shipping labels and Sgt. White has left shipping labels in the truck. This occurred prior to October or

November 2017 when Ofc. Gendreau was on Sgt. White's day shift. Ofc. Gendreau confirmed he has overheard Sgt. White talking on his phone about the tea business but could not provide specific details.

This interview was downloaded to CD and added to the case file as item 16.

Captain Tammy Malphurs:

I conducted an interview with Capt. Malphurs at the New Smyrna Beach Lifeguard Station on April 24, 2018. Capt. Malphurs is Sgt. White's direct supervisor. She oversees operations in districts IV (New Smyrna Beach) and V (Port Orange) and directly supervises the four Sergeants who run the individual shifts.

Capt. Malphurs was aware that Sgt. White owns a tea company. She has overheard him talking on his phone about the tea business within the last 2-3 months. She estimated she has overheard conversations about the tea business "at least twice." She told me she doesn't remember him using any of the county computers to work on his tea business. She told me she has never given Sgt. White permission to work on his tea business while he's on duty nor has he asked. Capt. Malphur told me no employees have complained to her about Sgt. White using county time or equipment to work on his tea business. Capt. Malphurs confirmed that Sgt. White has gone to the Mango Tree Lot where Beach Safety equipment is stored and he normally generates a CAD call when he's down there. She did not know of any other reason for Sgt. White to be in the city of Edgewater. Capt. Malphurs told me Sgt. White spends a "decent amount of time" at the station but could not tell me exactly what he's doing. She told me she would expect he is working on work related paperwork and added that Sgt. White did a lot of work for the VSLA (Volusia Surf Lifesaving Association) and National Lifeguard Championship. She added that was approved and allowed.

Capt. Malphurs contacted me at 1658 hours on the same day and told me she remembered other information that may be relevant to this investigation. I conducted a follow-up interview with her on April 25, 2018 at the New Smyrna Beach Lifeguard Station.

Capt. Malphurs told me she remembered a meeting she had with Sgt. White at the Dunlawton Station approximately two months ago. She told me he was working at that station due to an overtime shift or shift exchange. When she walked into the station, Sgt. White was on his cell phone and she overheard him talking about the tea company and heard take a credit card number over the phone. She assumed this was in reference to some kind of payment but was not positive. She believed he wrote down the credit card number but was not sure. I asked Capt. Malphurs what her response was after overhearing this conversation. She told me she didn't say anything because "I just didn't feel it was necessary. It was just a couple minutes and I really didn't think too much about it."

Both interviews were downloaded to CD and added to the case file as item 17.

Brian Brocious:

On Friday April 27, 2018 at 1316 hours I attempted to call former Beach Safety Specialist (BSS) Brocious. The call was not answered and I sent a text message to BSS Brocious's cell phone stating "Brian, this is Dave Vanis. I hope all is well down south. Can you give me a call when you have a few minutes?" Brocious called me back at 1320 hours. I explained that I was conducting an investigation and

needed to interview him regarding his informal exit interview with DC Jenkins on December 28, 2018. Brocious seemed apprehensive about getting involved in the investigation and I asked "All I want to do is ask if you saw Bryon White working on his personal business on duty and what you saw?" Brocious replied that he did but had aspirations of returning to Volusia County in the future and didn't want to jeopardize that opportunity. He added that he wouldn't be able to tell me exactly when, or what, he saw. Brocious told me that he was not sure if he wanted to participate in an interview and would call me back next week and let me know his decision.

On Tuesday May 1, 2018, I attempted to contact Brocious again via his cell phone and left a voicemail for him to return my call.

On Wednesday May 2, 2018 at 1247 hours I sent Brocious a text message reminding him that he is still a part time lifeguard and had an obligation to cooperate with employee investigations. At 1312 hours, Brocious called me and advised he had just resigned his seasonal lifeguard position at Beach Safety. I told him I just wanted to hear his version of the exit interview and he had not been accused of any misconduct. Brocious replied everything he knows is "hearsay" and would not consent to an interview.

IT Micro-analyst Jolene Baiardo:

I conducted an interview with Mrs. Baiardo at Public Protection Administration on May 2, 2018. Ms. Baiardo became involved in this investigation on February 24, 2018 when her superiors requested she and Ron Goodenough meet with me and Deputy Director Swanson to discuss the original inquiry on the hard drives at the New Smyrna Beach Lifeguard Station.

Ms. Baiardo stated she removed the hard drives from the two PCs at the Lifeguard Station on March 1, 2018. She advised the PCs were located in the processing room (L09234) and the Sergeant's Office (L09511) at the station. She then conducted a search of the hard drives specific to the user BaWhite (Sgt. White's network id). She advised she was searching for files related to "Yaupon Brothers Tea." She further advised that she could not view the internet browsing history initially because she did not have the password for BaWhite. During her initial search, she was able to see the desktop, cached memory, and temporary internet files. Her initial search of the hard drives revealed shipping labels, contracts, Quickbooks information, and pictures related to Yaupon Brothers Tea. She added that more of this information was located on the computer in the processing room than the Sergeant's office.

Mrs. Baiardo told me she was instructed to install computer monitoring software call SpyAgent on both computers on March 20, 2018. This software sits in the background of the computer and was only "aimed" at the user BaWhite. She told me it was supposed to track keystrokes and take an image of the screen every thirty seconds. She added the software ended up not monitoring the keystrokes. The software also tracked websites accessed and applications used by user BaWhite. Mrs. Baiardo removed the software from the computers on April 5, 2018.

Mrs. Baiardo was instructed by her director to change the password for user BaWhite so she could log in as the user and view the internet browsing history. She advised the internet browsing history from the Sergeants office was minimal but did see that the user had accessed gmail accounts bawhite1@gmail.com and yauponbrothers@gmail.com. When asked about the processing room computer, Mrs. Baiardo advised there was a more detailed browsing history because the Chrome browser was installed on that computer

and not the Sergeant's office computer. The browsing history Mrs. Baiardo provided for the processing room computer was exclusively from the Chrome browser as she could not retrieve history from the Internet Explorer or Firefox browsers. Mrs. Baiardo provided me with forty-five pages of internet browsing history from February 3, 2018 through the date of this interview for user BaWhite. She had already opened the links provided in the history and found several links to Quickbooks, Shopify, and several emails linked to the history. She added that some of the emails were regarding tea orders and shipments and others included documents related to Yaupon Brothers. Mrs. Baiardo agreed to go back through the links and provide me with screenshots of the pages linked in the browsing history. The browsing history and associated screenshots were added to the case file as item 19.

This interview was downloaded to CD and added to the case file as item 18.

Information:

The following is a summary of the Chrome browsing history (Item 19) from the Processing Room computer (L09234) provided by Mrs. Baiardo:

February 3, 2018

- 0723-0740- indeed.com, google searches for "tea sales manager" and "florida teacher blacklist," weather.gov, my.peoplematter.com, tavistock.com
- 0930-0940- Yaupon Brothers Gmail account, indeed.com
- 1753-1809- yaupon-brothers-tea.myshopify.com, mailchimp.com (campaign builder), Quickbooks

February 4, 2018

- 1704-1704- fematestanswers.com
- 1720-1735- yaupon-brothers-tea.myshopify.com, ebay.com (set up your business selling account), paypal.com, search.sunbiz.org

February 12, 2018

- 0955-0959- news-journalonline.com

February 13, 2018

- 0907-0910- medium.com, news-journalonline.com, indeed.com

February 16, 2018

- 0749-0753- news-journalonline.com

February 21, 2018

- 0920-0927- facebook (Volusia Surf Lifesaving Association and Volusia Watermans Association)

February 27, 2018

- 1633-1647- quizlet.com, google search for quizlet IMS700 and IS800
- 1710-1733- ebay.com, autotrader.com, BryonWhite1 Gmail, Yaupon Brothers Gmail
- 1749-1857- Youtube, newsmyrnachevy.com, Volvo V70 google search, newsmyrnachryslerjeepdodge.net

March 2, 2018

- 1103-1110- Yaupon Brothers Gmail
 - 1838-1851- New-journalonline.com, BryonWhite1 Gmail
- March 4, 2018
- 0719-0804- Trademark Application process (Yaupon Brothers American Tea Co.),indeed.com
 - 0937-0943- Yaupon Brothers Gmail, cashier.alibaba.com, Suntrust, March 7, 2018
 - 0930-0944- indeed.com job search
 - 1127-1144- Awardsplatform.com, Yaupon Brothers Gmail, Zillow.com (Real Estate), Grants.gov, 2018 Specialty Crop Block Grant Program
- March 8, 2018
- 0722-0724- news-journalonline.com
 - 1103-1139- Quickbooks (Volusia Surf Lifesaving Association), bryonwhite1 Gmail, Zillow.com (Realty), Yaupon Brothers Gmail
- March 10, 2018
- 1837-1857- Homepath.com, realtytrac.com, REO-America.com, Yaupon Brothers Gmail
- March 13, 2018
- 0816-0904- Airbnb (several searches in London, UK), Yaupon Brothers Gmail
 - 1044-1052- Prime Care Volusia Google search, Airbnb (several searches in London, UK), Bryonwhite1 gmail, Yaupon Brothers Gmail, Twin Lakes Port Orange Google search
- March 21, 2018
- 1809-1811- Yaupon Brothers Gmail, Customs Power of Attorney
- March 22, 2018
- 0857-0900- REO America (Real estate)
 - 1023-1027- REO America (Real estate)
 - 1043-1045- Yaupon Brothers Gmail
 - 1803-1805- Quickbooks, Sales transactions, chart of accounts
 - 1826-1830- Quickbooks, sales transactions
- March 25, 2018
- 0810-0837- My Daytona State, Quizzes, Quizlet
 - 1148-1152- Youtube
- March 26, 2018
- 1407-1442- Suntrust, BryonWhite1 Gmail, Quickbooks, Yaupon Brothers Gmail
 - 1512-1514- Yaupon Brothers Gmail
 - 1751-1754- Montana Pharmacy website, flathead beacon website, indigo cantor google search
 - 1846-1846- Yaupon Brothers Gmail
- April 4, 2018
- 0857-0924- Google docs, Yaupon Brothers Gmail, Starwest Botanicals, QCS request for information

- 0949-0949- Google Docs, Organic Product Profile
- 1055-1109- Yaupon Brothers Gmail, Starwest botanicals website, Yaupon Brothers Gmail, Google Docs
- 1127-1131- Proforma invoice template
- 1149-1149- Packing slip template
- 1307-1309- Yaupon Brothers Gmail
- 1454-1505- Yaupon Brothers Gmail, Suntrust, Yaupon Brothers MyShopify
- 1934-1938- Groupwise webmail

April 5, 2018

- 1206-1236- Yaupon Brothers Gmail, Google documents, organic profile documents

IT Desktop Analyst Ronald Goodenough:

I conducted an interview with Mr. Goodenough at Public Protection Administration on May 4, 2018.

Mr. Goodenough conducted an analysis on the laptop computer located in Beach Safety vehicle 4E (L07259) which was identified by other witnesses as the unit Sgt. White normally operates while on duty. The laptop uses a generic user login whose password is known to all Beach Safety officers and supervisors. Mr. Goodenough told me he located three weeks of browsing history in the laptop's browser. The only significant links located include "Yaupon Brothers Tea My Shopify" three weeks prior to the removal of the laptop's harddrive on April 24, 2018. Nothing else of significance was located on this computer's hard drive. The analysis for this computer was added to the case file as item 21.

This interview was downloaded to CD and added to the case file as item 20.

Sergeant Bryon White:

Seregant White was provided notice of internal investigation and Administrative Leave notice on May 1, 2018 at the Stephen Saboda Training Center.

I conducted a sworn and recorded interview with Sgt. White on May 7, 2018 at Public Protection Administration. Also present for this interview was Teamsters Business Agent Gary Conroy, Sgt. White's Attorney Joseph Blitch, Human Resources Assistant Director Joseph Pozzo, and Assistant County Attorney Michael Moore. Sgt. White acknowledged that he had reviewed the evidence provided in this case including digital evidence, video, interview transcripts, and documents.

Sgt. White confirmed his county network user name is "BaWhite," and didn't know if anyone else had his login password. He stated he has not given his password to anyone else. Sgt. White confirmed he is the co-owner of Yaupon Brothers Tea. He advised the company has been in existence since 2015 and his office is located at 1814 Fern Palm Dr, Edgewater. He added the office has been at this location since September 2017 and prior to that the company was run out of his residence.

Sgt. White confirmed that he has used county computers to perform work for his tea company. He confirmed he has used county computers for email correspondence relating to his tea business. He also confirmed that he has logged into his bank and Quickbooks accounts. Sgt. White has used the county's printers to print documents relating to his tea business but couldn't say if he has used the scanners for any

business related function. He confirmed that he has generated shipping labels on a few occasions for his company. When asked if he scanned the document labeled "scan0005 (1).pdf," which is titled "Yaupon Brothers American Tea Co.~Dashboard~Shopify," Sgt. White did not recall that specific incident. He could not recall if he had taken orders, made payments, or created invoices using county computers. When asked how frequently he uses county equipment for specified functions, Sgt. White responded that he could not recall or a "De Minimis amount." He could not specify a number of times or amount of time he spends performing any of the functions. When asked if he has used county computers to shop for vehicles, land, or equipment for his tea business, Sgt. White responded:

I've used County computers the same way everybody else uses them. I've looked at the internet. I've looked at real estate. I bought a car recently. I might have looked at cars on there. I didn't purchase anything.

Sgt. White had no recollection of receiving tea leaf deliveries as described by Ofc. McGibeny. He did not recall taking an order over the phone as described by Capt. Malphurs. He did recall the situation described by BSS Gutierrez and stated he had brought in tea for some friends and gave it to them when they stopped by the station. It was not a sale and no money exchanged hands.

Sgt. White told me many of the documents located on the hard drive could be there due to his company's sponsorship of the 2017 National Lifeguard Championship. He advised he was the president of the Volusia Surf Lifesaving Association (VSLA) and was authorized to work on the event by his superiors. He added he was also the VSLA treasurer at one point and used his companies Quickbooks account to manage the VSLA's finances. Sgt. White was shown three documents which were found under his profile on the processing room computer. He told me the document named "Yaupon Joust Revised.pdf" was related to the marketing materials for the lifeguard competition but the other two documents named "ORGANIC HANDLER-PROCESSOR Plan (1).pdf" and "ORGANIC Wildharvest Application.pdf" were not related to the competition. The marketing images located on the hard drive may or may not have been used for the lifeguard competition and Sgt. White was unsure of how they came to be stored on the computer's hard drive because they are stored in a web based system.

Sgt. White confirmed that he has used his patrol vehicle to travel to his residence and to his office in Edgewater. He told me he has stopped by his residence on the way back from fleet management and it is only a block off his route back to the beach. He told me he has gone by his office in Edgewater after going to the Mango Tree compound. He advised the reason for these trips was personal and not business related. The occasionally stops at his office were to get food or use the restroom. Sgt. White was specifically asked about the reason for his trip to his office on April 4, 2018 after he had spent 104 minutes working on tea business on the processing room computer. Sgt. White advised he was waiting on a paint order from Sherwin Williams in New Smyrna Beach and needed to stop by his office to retrieve medication. He added that Capt. Malphurs was aware he was trying to see his doctor that day but he could not recall if she authorized him to travel to his office. Sgt. White could not recall if he ever received permission to go by his office from a superior but added the trips were always minimal amounts of time and near an approved location.

When asked if there was anything else he would like to add to the record pertaining to this investigation, Sgt. White expressed frustration with the investigative process and alleged that this investigation began because he is targeted by DC Jenkins because he (White) is the union president.

... Deputy Chief Jenkins files a complaint alleging some type of hostile work environment based partly on this testimony that apparently allegedly occurred from BSS Brocious. And then they sat on this information for 5 months while I was asking if I was doing something wrong. You know I have a document from Deputy Director Swanson that I signed when I got promoted that advises me as a supervisor I am to attack these problems as they arise. I am to provide employees with clear guidance and direction. At no point did any of my responses or inquiries asking if there was an issue or a problem were they ever addressed. Ever. Deputy Chief Jenkins makes a complaint on me based on some complaint that might not even exist and he gets a full transcribed interview. The result is a blown out IA that lasts for 5 months. I think the whole thing is choreographed because of my protected concerted activity. And that's my County phone by the way. The entire Internal Affairs investigation began as an orchestrated and choreographed, tactfully employed, weaponized form of targeting me for my protected concerted activity. And I have lots of it to demonstrate. I'll provide you copies of some. These are just mere examples of that protected activity that I'm speaking of as a Union president. I think all of these allegations demonstrate a de minimis occasional skimming over of documents on my behalf. I think every other employee in this County checks their personal email, checks their bank accounts, but nobody is targeted this way because they're not the Union president. You crack open my personnel file. There's no discipline. I've been here 15 years. Not one single EPN. I provided you with an analysis of my work volume and I'm one of the busiest, most productive employees on the beach. So where exactly is this impacting my performance? And why exactly when I'm asking my supervisors directly if there's something I'm doing wrong am I just systematically ignored. Almost as a matter of policy and practice. The answer is because I'm the Union guy. That's why. Here is an example of some protected activity. This is me filing a grievance in the past on Sergeant Whetstone... The date is August 24, 2017. Here is a Notice of Breach of Collective Bargaining Agreement that I provided as a courtesy to Director Manchester on April 17, 2018. One of the surveillance views, by the way, I believe is me drafting this email to Director Manchester. Here is a press release from the Waterman's Association dated December 8, 2017 in which we stated our opposition to the beach driving closure behind Hard Rock Hotel, and the big reason why we're here. Here is a letter I authored to County Council in December, 2017 stating our opposition to the changing of the Merit Rules, especially in relation to grievance procedures which we agreed to as a provision of our CBA. CBA ratified and the grievance. Procedures are changed. That's malicious. All these activities are just mere examples of my protected concerted activity as a Union president, which I believe this entire investigation is a choreographed intent to destroy and defame my reputation, my credibility based upon my status as a Union president.

Sgt. White provided me with copies of the documentation he refers to and a list of Beach Safety employees he believes will corroborate his accusation. These were added to the case file as item 23. This interview was downloaded to disc and added as item 22.

Information:

I presented the facts of this case to Director Sanders, Deputy Director Bythwood, and Deputy Director Swanson on May 14, 2018. I was directed to conduct further forensic analysis regarding the processing room computer (L09234). On May 16, 2018 I submitted the hard drive retrieved from this PC on

February 28, 2018 to Computer Forensics, LLC in West Palm Beach for analysis. I requested them to determine how much time Sgt. White was using this PC to conduct business related to his tea company. On May 29, 2018 I received a report from Computer Forensics, LLC documenting their analysis of the hard drive. The report concludes that they were unable to determine the exact amount of time Sgt. White used the county's computer to conduct "supplemental business." In addition, the report states "the conclusion reached through the examination of evidence provided is that significant time was spent, which could have resulted in dozens of hours of non Volusia County activity." This report was added to the case file as item 24.

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. 86-43. - Conduct of employees.

(a) *Code of conduct.* Employees of the county government are employed to provide service to the citizenry of the county and the public in general and are expected to conduct themselves in a manner that will reflect credit on the county government, public officials, fellow employees and themselves. Employees must avoid any action which might result in or create the impression of using public office for private gain, giving preferential treatment to any person, or losing impartiality in conducting public business.

(c) *Outside employment.*

(1) Full-time employees are not encouraged but not prohibited from engaging in other employment during their off-duty hours. However, county employment shall be considered the primary employment; and no employee may engage in outside employment which in any manner interferes with proper and effective job performance, results in a conflict of interest or which may subject county government to public criticism or embarrassment.

(f) *Business activities and solicitation.* No employee shall engage in any business other than his regular duties during working hours, including such activities as selling to fellow employees, lending of money for profit, etc.

(l) *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.

Sec. 86-453. - Reasons for disciplinary action. Any of the following violations may be sufficient grounds for disciplinary action ranging from oral reprimand to dismissal, depending on the seriousness of the offense and other circumstances related to the situation. These offenses are illustrative and not all-inclusive.

- (1) Willful neglect in the performance of the duties of the position to which the employee is assigned.
- (2) Disregard for or frequent violations of county ordinances, 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.
- (13) Any conduct, on or off duty that reflects unfavorably on the county as an employer.
- (21) Any other conduct or action of such seriousness that disciplinary action is considered warranted.

Communications Policy- Internet use Policy- The use of public resources for personal gain/or private use, such as but not limited to, outside employment or for political campaigning purposes, by County employees, is prohibited

and punishable by disciplinary action which may include termination and/or criminal prosecution depending on the nature and severity of the transgression. Incidental and occasional personal use may be permitted with the consent of the Department Director.

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.

34.08.32 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)

VCBS Policy 11.01.23 Leaving Assigned Work Area –Employees shall remain at or in assigned work areas or Zones during working hours, unless otherwise authorized by a Supervisor.

VCBS Policy 11.01.34 Negligence, Not Endangering –Employees shall not ignore or violate official Directives, orders, or Supervisory instructions or knowingly fail to properly execute the duties and responsibilities of their assigned positions.

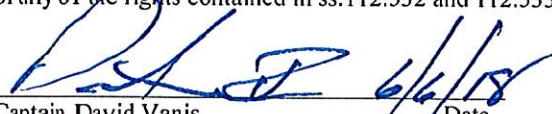
VCBS Policy 34.12 - It is the policy of the Volusia County Department of Public Protection Beach Safety Division to abide by all software licensing, copyright agreements and Federal Bureau of Investigation (FBI) Criminal Justice information Services (CJIS) Security Policies. All computers owned or operated by the county shall be used for official business purposes only. This policy is applicable to all computer software and hardware currently installed or that may be installed in the future. Furthermore, it is the policy of this agency that users of department computers shall abide by all computer policies established by the county and procedures set forth in this document.

VCBS Policy 34.12.01 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).


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



Approved Date



COUNTY OF VOLUSIA
JUL 02 2018
DEPT. OF PUBLIC PROTECTION

INTER-OFFICE MEMORANDUM
Department of Public Protection
Division of Beach Safety
515 South Atlantic Ave.
Daytona Beach, FL 32118
386-239-6414 – FAX 386-239-6420

TO: Sergeant Bryon White
Beach Safety Division

DATE: June 28, 2018

FROM: Raymond Manchester, Director
Beach Safety Division

FILE NO: BS-RM-18-011

SUBJECT: Notice of Written Reprimand

REFERENCE: IA 2018-02

Purpose: The purpose of this memorandum is to provide notice of written reprimand as the result of your violation of County Policies and Procedures and Division Directives.

Background Information: Your actions as provided in the Internal Investigation conducted by Captain Dave Vanis, identified conduct by you in violation of the Volusia County Merit System Rules and Regulations and the Division of Beach Safety Directives. Specifically, it was sustained that you worked on your private business, Yaupon Brothers American Tea Co., while working as a Sergeant for the Beach Services Division.

During the Internal Investigation, Captain Vanis conducted multiple interviews with Beach Safety Division personnel, Information Technology Division personnel, and conducted an analysis of the two computers at the New Smyrna Beach Lifeguard Station.

Captain Vanis conducted a sworn and recorded interview with you on May 7, 2018, at Public Protection Administration. Also present for your interview were Teamsters Business Agent Gary Conroy, your Attorney Joseph Blich, Human Resources Assistant Director Joseph Pozzo, and Assistant County Attorney Michael Moore. You acknowledged that you had reviewed the evidence provided in this case including digital evidence, video, interview transcripts, and documents.

You confirmed your county network user name is "BaWhite," and you didn't know if anyone else had your login password. You stated you have not given your password to anyone else. You confirmed you are the co-owner of Yaupon Brothers Tea. You advised the company has been in existence since 2015 and your office is located at 1814 Fern Palm Dr., Edgewater. You added the office has been at this location since September 2017 and prior to that the company was run out of your residence.

You confirmed that you have used county computers to perform work for your tea company. You also confirmed you have used county computers for email correspondence relating to your tea business, you confirmed that you have logged into your bank and QuickBooks accounts on the county computer, and you confirmed you have used the county's printers to print documents relating to your tea business, but couldn't say if you have used the scanners for any business related function. You confirmed that you have generated shipping labels on a few occasions for your private business. When Captain Vanis asked if you

(Continued)

scanned the document labeled "scan0005 (1).pdf," which is titled "Yaupon Brothers American Tea Co.-Dashboard-Shopify," you did not recall that specific incident. You could not recall if you had taken orders, made payments, or created invoices using county computers. When Captain Vanis asked how frequently you use county equipment for specified functions, you responded that you could not recall or a "De Minimis amount." You could not specify a number of times or amount of time you spend performing any of the functions.

You confirmed that you have used your patrol vehicle to travel to your residence and to your office in Edgewater. You told Captain Vanis you have stopped by your residence on the way back from fleet management and it is only a block off your route back to the beach. You told Captain Vanis you have gone by your office in Edgewater after going to the Mango Tree County compound. You advised the reason for these trips were personal and not business related. The occasional stops at your office were to get food or use the restroom. You were specifically asked by Captain Vanis about the reason for your trip to your office on April 4, 2018 after you had spent 104 minutes working on tea business on the processing room computer. You advised you were waiting on a paint order from Sherwin Williams in New Smyrna Beach and needed to stop by your office to retrieve medication. You added that Capt. Malphurs was aware you were trying to see your doctor that day but you could not recall if she authorized you to travel to your office. You could not recall if you ever received permission to go by your office from a superior but added the trips were always minimal amounts of time and near an approved location.

Captain Vanis presented the facts of this case to Director Sanders, Deputy Director Bythwood, and Deputy Director Swanson on May 14, 2018. Based on that meeting, Captain Vanis was directed to conduct further forensic analysis regarding the processing room computer (L09234). On May 16, 2018 Captain Vanis submitted the hard drive retrieved from this PC on February 28, 2018 to Computer Forensics, LLC in West Palm Beach for analysis. Captain Vanis requested an analysis of the hard drive and to determine how much time you were using this PC to conduct business related to your tea company. On May 29, 2018, Captain Vanis received a report from Computer Forensics, LLC documenting their analysis of the hard drive. The report concludes that they were unable to determine the exact amount of time you used the county's computer to conduct "supplemental business." In addition, the report states "the conclusion reached through the examination of evidence provided is that significant time was spent, which could have resulted in dozens of hours of non Volusia County activity."

Violations: Your actions of conducting personal business during county work hours violated the following Volusia County Merit System Rules and Regulations and the Division of Beach Safety Directives.

Volusia County Merit System Rules and Regulations—Division 1 - Generally, Sec. 86-43. Conduct of employees (a),(c),(f), (I):

Sec. 86-43. - Conduct of employees.

- (a) *Code of conduct.* Employees of the county government are employed to provide service to the citizenry of the county and the public in general and are expected to conduct themselves in a manner that will reflect credit on the county government, public officials, fellow employees and themselves. Employees must avoid any action which might result in or create the impression of using public office for private gain, giving preferential treatment to any person, or losing impartiality in conducting public business.

(Continued)

(c) *Outside employment.*

(1) Full-time employees are not encouraged but not prohibited from engaging in other employment during their off-duty hours. However, county employment shall be considered the primary employment; and no employee may engage in outside employment which in any manner interferes with proper and effective job performance, results in a conflict of interest or which may subject county government to public criticism or embarrassment.

(f) *Business activities and solicitation.* No employee shall engage in any business other than his regular duties during working hours, including such activities as selling to fellow employees, lending of money for profit, etc.

(l) *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.

**Volusia County Merit System Rules and Regulations—Division 13 - Disciplinary Actions Sec. 86-453
Reasons for disciplinary action (2), (3),(8) and (21):**

Sec. 86-453.

- (2) *Disregard for or frequent violations of county ordinances, 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) *.....conduct which interferes with effective job performance or has an adverse effect on the efficiency of county service.*
- (21) *Any other conduct or action of such seriousness that disciplinary action is considered warranted.*

Communications Policy- Internet use Policy- The use of public resources for personal gain/or private use, such as but not limited to, outside employment or for political campaigning purposes, by County employees, is prohibited and punishable by disciplinary action which may include termination and/or criminal prosecution depending on the nature and severity of the transgression. Incidental and occasional personal use may be permitted with the consent of the Department Director.

**Volusia County Beach Safety Departmental Standards Directive, Standards of Conduct, Sec. 11.01- I,
34.08.32:**

- 11.01 I.** *Employees should not, directly or indirectly, use or allow the use of County property of any kind for other than official activities.*
- 34.08.32** *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.

(Continued)

At no time shall the personal use of the system impede official business. (see Directive 34.08.22 other restrictions). (CFA 32.01)

Volusia County Beach Safety Departmental Standards Directive, 11.01.23 Leaving Assigned Work Area:

- 11.01.23** Employees shall remain at or in assigned work areas or Zones during working hours, unless otherwise authorized by a Supervisor.

Volusia County Beach Safety Departmental Standards Directive, 11.01.34 Negligence, Not Endangering:

- 11.01.34** Employees shall not ignore or violate official Directives, orders, or Supervisory instructions or knowingly fail to properly execute the duties and responsibilities of their assigned positions.

Volusia County Beach Safety Departmental Standards Directive, Computer Hardware and Software, 34.12:

- 34.12** It is the policy of the Volusia County Department of Public Protection Beach Safety Division to abide by all software licensing, copyright agreements and Federal Bureau of Investigation (FBI) Criminal Justice information Services (CJIS) Security Policies. All computers owned or operated by the county shall be used for official business purposes only. This policy is applicable to all computer software and hardware currently installed or that may be installed in the future. Furthermore, it is the policy of this agency that users of department computers shall abide by all computer policies established by the county and procedures set forth in this document.

Volusia County Beach Safety Departmental Standards Directive, Department Computers, VCBS Policy 34.12.01:

- 34.12.01** 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).

Conclusion: Accordingly, and based on close review of your conduct surrounding these events, this letter shall serve as documentation of a Written Reprimand. Conduct of this nature is contrary to the standards of professionalism expected from Beach Safety personnel. You are advised that any continued adverse behavior or performance will result in more severe disciplinary actions up to and including dismissal.

As noted in the Volusia County Merit System Rules and Regulations (VCMSRR), section 86-455 (b)(2), procedure for disciplinary action, a copy of the reprimand shall be included in your official personnel file in the Human Resources office, and you shall have the opportunity to submit written comments to be included in the file.

In accordance with the Volusia County Merit System Rules and Regulations (VCMSRR), Section 86-483, Complaints and 86-484, Grievances, you have ten (10) working days from receipt of this

(Continued)

notification (or effective date of the written reprimand) to grieve this action through the complaint and grievance process as described in the Volusia County Merit System Rules and Regulations.

If you do not file your grievance by the time indicated, 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)

06/28/2018
(Date of Signature)

- cc: Terry Sanders, Public Protection Director
 Patricia Bythwood, Public Protection Deputy Director
 Mark Swanson, Public Protection Deputy Director
 Tom Motes, Human Resources Director
 Joseph Pozzo, Human Resources Assistant Director
 Tammy King, EEO Coordinator
 Michael Moore, Assistant County Attorney