



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: March 1, 2018

SUBJECT: IA 2018-01, Lieutenant Stephen Szabo, Volusia County Fire Rescue

References:

1. Miscellaneous memos.
2. Port Orange Police case number PO180000858 (Dated January 29, 2018).
3. Court records.
4. Battalion Chief Scott Smoak witness interview (Dated February 1, 2018).
5. Firefighter Alec Ribbink witness interview (Dated February 1, 2018).
6. Firefighter Michael Weeks witness interview (Dated February 1, 2018).
7. Deputy Fire Chief Howard Bailey witness interview (Dated February 2, 2018).
8. Pictures provided by Tina Zalich (Received February 2, 2018).
9. Division Chief Paul Ebanks witness interview (Dated February 2, 2018).
10. Alliegh Zalich witness interview (Dated February 6, 2018).
11. Screenshot of text messages sent by Lt. Szabo to Alliegh Zalich on January 29, 2018.
12. Lieutenant Stephen Szabo subject interview transcript (Dated February 8, 2018).
13. Port Orange Police BWC video from PO180000858.

Complaint:

On January 29, 2018 at approximately 1742 hours, Fire Lt. Stephen Szabo was arrested by the Volusia County Sheriff's Office at Station 44 in Pierson. Lt. Szabo was charged with Felony Battery- Domestic by Strangulation [FSS 784.041(2)(A)] by Port Orange Police. He was transported to the Volusia County Branch Jail with no bond.

Background:

At 0008 hours on January 29, 2018 an anonymous reporting person reported a verbal disturbance in front of 3900 Yorktowne Blvd, Port Orange involving a male and female. The CAD notes indicated there was a verbal disturbance for the last twenty minutes and the male was kicking the door trying to get into the apartment. The Port Orange PD incident report indicates that there was an altercation involving Lt. Szabo and his long term girlfriend, Alliegh Zalich, at her apartment. Both parties denied any physical violence was involved, but Alliegh alleged that Lt. Szabo had damaged several items in her apartment during the argument. The report stated "I went inside the residence and observed Alliegh's room to be ransacked, with mirror pieces all over the floor. There were also droplets of blood on the carpet and doorstep from Stephen's toe bleeding." Lt. Szabo advised POPD that his toe was injured when he "stubbed" his toe on the doorstep. Alliegh stated that he cut his toe when he stomped on her eye glasses. Alliegh signed a "Refusal to prosecute" regarding the vandalism to her property and Lt. Szabo was allowed to contact someone to take him from Alliegh's apartment.

A review of Lt. Szabo's arrest affidavit indicated that Alliegh did not report to Port Orange Police the altercation was physical because of "...not wanting him to get in trouble at work (Volusia County Fire Services)." After seeing the extent of her injuries and consulting with family, Alliegh decided to report what occurred during the altercation.

Alliegh told police that she and Lt. Szabo had been in a relationship for two years and known each other for seven. Alliegh advised that she had seen Lt. Szabo earlier in the day (January 28, 2018) when he was drinking with friends. She stated that they had engaged in a minor, verbal altercation over his friends not liking her. At approximately 2200 hours, Lt. Szabo called Alliegh and she allowed him into her apartment. Lt. Szabo accused her of cheating on him and demanded her cell phone. After looking through the phone, Lt. Szabo allegedly pulled Alliegh off of her bed by her hair and pushed her into a mirror causing the mirror to break. Once on the ground, Lt. Szabo straddled her and placed both his hands on her neck. After fighting back, Lt. Szabo told her "this is the last time you disrespect me." After he released her, Alliegh attempted to get her phone back from Lt. Szabo. At this point, Lt. Szabo pushed her to the ground and into a piece of furniture. He again straddled her and placed both of his hands on her neck. This time, Alliegh told Officers that she could not breathe and her vision started to become blurry. At this point, Lt. Szabo released her and stomped on her eyeglasses. Lt. Szabo then grabbed Alliegh by the "chin and jaw line" and slammed her head against the apartment wall three times. The verbal argument continued outside until Alliegh was able to close and lock her apartment door. Lt. Szabo continued to yell at her and began to kick the door. Fearing that the door would break, Alliegh allowed Lt. Szabo back in and he went upstairs in the apartment where he refused to leave. When police arrived, Lt. Szabo told Alliegh "I'm going to go to prison over you."

The charging affidavit indicates fresh bruising was visible on Alliegh's left eye lid, both sides of her neck, right collar bone, right side of right breast, left bicep/tricep, right elbow, left tibia and both knees. Small lacerations were visible on her right wrist and left elbow.

Lt. Szabo was arrested by VCSO at 1742 hours on January 29, 2018 at Station 44 in Pierson with no bond allowed. Lt. Szabo was released on his own recognizance at first appearance on January 30, 2018. The incident report, CAD notes, and charging affidavit were added to the case file as item 2.

Lt. Szabo sent Chief Smith a memo titled "Required Notification" on January 30, 2018. This item was added to item 1. This memo notified Chief Smith of the arrest and acknowledged the media attention generated by this incident. The memo also states "I am retaining legal counsel to vigorously oppose the charge and my arrest. I respectfully ask you to provide me an opportunity to hear my version of this event and allow me to get this situation resolved."

Chief Smith requested an internal investigation into this incident on January 30, 2018. Dir. Sanders ordered me to conduct the investigation on the same day. Lt. Szabo was placed on administrative leave on January 30, 2018 and was served notice of internal investigation on January 31, 2018.

A review of Lt. Szabo's court records also showed that he was charged with simple battery [FSS 784.03(1)(A)1] as a result of an incident at Bishop's Tavern in Daytona Beach on January 15, 2012. No information was filed in this case. Lt. Szabo was also issued a Notice to Appear for Leaving the Scene of a crash with Property Damage (FSS 316.061) and Careless driving (FSS 316.1925) on March 24, 2008 by South Daytona Police. The leaving the scene of a crash charge was nolle prossed and adjudication was withheld on the careless driving charge. Lt. Szabo has been employed by VCFS since 2004 and no record of these charges was located by Fire administration. Chief Smith was not aware of either of these incidents as required by VCFS Standard Operating Guidelines. These records were added to the case file as item 3.

Battalion Chief Scott Smoak:

I conducted a sworn interview with BC Smoak on February 1, 2018 at Station 41. Also present for this interview was HR Assistant Director Joseph Pozzo.

BC Smoak was assigned as BAT40 on January 29, 2018. He was Lt. Szabo's direct supervisor. He told us that he first learned that Lt. Szabo may be arrested from DFC Bailey who advised him and DVC Ebanks of this information during a budget meeting at Fire Admin at approximately 1430 hours. The first time that BC Smoak saw Lt. Szabo during the day was on a medical call at approximately 1600 hours. He advised that Lt. Szabo appeared normal. After the call, BC Smoak went to Station 44 where Lt. Szabo asked to speak with him privately. Lt. Szabo advised that he may be getting arrested due to an argument with his girlfriend. Lt. Szabo added that he had been notified through a phone call from someone at "an agency." He did not specify who had called him. Lt. Szabo also told BC Smoak that he regretted some things that occurred during the argument. Fifteen to twenty minutes after this conversation, BC Smoak advised that VCSO Deputies arrived to the station and arrested Lt. Szabo without incident. BC Smoak told us that he asked Firefighters Ribbink and Weeks not to spread rumors about the arrest. They both agreed and it was apparent to BC Smoak that they were previously aware that Lt. Szabo may be arrested.

This interview was recorded and added to the case file as item 4.

Firefighter Alec Ribbink:

I conducted a sworn interview with FF Ribbink on February 1, 2018 at Station 41. Also present for this interview was HR Assistant Director Joseph Pozzo and FF Ribbink's Union representative BC Justin Hughes.

FF Ribbink advised that he has worked at Station 44 for Lt. Szabo for approximately two months. He added that he had been assigned to this station during his initial fire training several months ago. FF Ribbink

advised Lt. Szabo has told him in the past about arguments with his girlfriend, Alliegh Zalich. He told me this has occurred more than three times. FF Ribbink was only aware of one incident involving violence. It was a situation where Alliegh had hit Lt. Szabo in the head.

When asked, FF Ribbink eventually advised that he does socialize with Lt. Szabo outside of work. He told me he had been with Lt. Szabo for most of the day on January 28, 2018. He told me that he met Lt. Szabo and several other friends at the Ocean Deck at approximately 1400 hours and then moved to Off the Hook at approximately 1600 hours. Lt. Szabo's girlfriend Alliegh was present at Off the Hook in Ponce Inlet. Once it was dark, approximately 1900 hours, they all went to the South Turn Restaurant/Bar. Alliegh was not present at this location and FF Ribbink advised he and his fiancée left this location at 2030 hours to return home. FF Ribbink advised that he and Lt. Szabo had been drinking throughout the day. He could not estimate how much alcohol Lt. Szabo consumed but did say that no one in their party was intoxicated.

FF Ribbink told us on the morning of January 29, 2018, Lt. Szabo told him that he and Alliegh had "another blowout" the night before. FF Ribbink told me he has previously recommended Lt. Szabo end the relationship and ended his participation in this conversation.

While completing a medical transport at approximately 1600 hours, FF Ribbink told us that he saw "a look" on Lt. Szabo's face while still at the hospital. Lt. Szabo told FF Ribbink "she had pressed charges." Lt. Szabo showed FF Ribbink scratches on his neck and commented "I'm saying this was self-defense." Lt. Szabo was afraid the police would be waiting for him when they arrived back to the station. FF Ribbink asked if he had hit her and Lt. Szabo responded "no." When they arrived back to the station, Lt. Szabo had a private conversation with BC Smoak and was arrested by VCSO several minutes later.

This interview was recorded and added to the case file as item 5.

FF Michael Weeks:

I conducted a sworn interview with FF Weeks on February 1, 2018 at Station 41. Also present for this interview was HR Assistant Director Joseph Pozzo and FF Weeks' Union representative BC Justin Hughes.

FF Weeks told me that he had just been transferred to Station 44 and Monday January 29, 2018 was his first day working for Lt. Szabo. When asked, FF Weeks told us that Lt. Szabo looked tired but did not appear intoxicated when he first saw him in the morning. He told me after conducting morning equipment checks, Lt. Szabo told him he was going to take it easy today because he had an argument with his girlfriend the previous night and Port Orange Police had responded. FF Weeks added that Lt. Szabo stayed in his quarters till lunch time. When Lt. Szabo came out for lunch "he said that he's tired and going to get something to eat. Too much alcohol the night before and an argument with his girlfriend left him tired."

FF Weeks also told us after transporting a patient to the hospital, Lt. Szabo told him that he got a "tip" that he may get in trouble when they get back to the station.

This interview was recorded and added to the case file as item 6.

Deputy Fire Chief Howard Bailey:

I conducted a sworn interview with DFC Bailey on February 2, 2018 at Public Protection Administration. Also present for this interview was HR Assistant Director Joseph Pozzo.

DFC Bailey told us that he first became aware of the incident when he received a phone call from Alliegh Zalich's father, Mark Zalich, on January 29, 2018 sometime between 0800-1000 hours. Mr. Zalich described the events that occurred the night before between Lt. Szabo and Alliegh at her apartment and

explained that he was taking his daughter to the Port Orange Police Department to pursue battery charges. He explained this decision was made after the police departed Alliegh's apartment and he and his wife observed bruising on Alliegh's neck other parts of her body. DFC Bailey was later contacted by Port Orange Police and advised that they would be arresting Lt. Szabo later that afternoon at Fire Station 44. DFC Bailey notified BC Smoak and DVC Ebanks of this information so they could make arrangements to be present for Lt. Szabo's arrest and backfill his position for the remainder of his shift.

DFC Bailey told us that he had been contacted by Tina Zalich, Alliegh's mother, on the morning of this interview. Mrs. Zalich offered to send DFC Bailey pictures of Alliegh's injuries and damage caused to her apartment. Following the interview, I contacted Mrs. Zalich who forwarded me the pictures.

This interview was recorded and added to the case file as item 7. The pictures provided by Mrs. Zalich were added as item 8.

Division Chief Paul Ebanks:

I conducted a sworn interview with DVC Ebanks on February 2, 2018 at Public Protection Administration. Also present for this interview was HR Assistant Director Joseph Pozzo.

DVC Ebanks told us DFC Bailey advised him and BC Smoak that Lt. Szabo may be arrested at Station 44 at approximately 1300 hours on January 29, 2018. At approximately 1600 hours, BC Hughes contacted him and advised of the same information. Once Lt. Szabo was arrested, DVC Ebanks was notified by BC Smoak who was present at Station 44 when the arrest took place.

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

Alliegh Zalich:

I conducted a telephone interview with Alliegh Zalich on February 6, 2018. Also present for this interview was HR Assistant Director Joseph Pozzo.

Alliegh told us that she and Lt. Szabo have been dating for approximately two years and they have known each other for seven. They do not live together. She told us they frequently argue and have been in violent disputes three or four times since they began dating. Normally, the fights involve him pushing or spitting in her face. Alcohol is usually involved when the fights have been violent. She told us that he's never choked, punched, or slapped her before. Prior to this incident, law enforcement has never been involved in any of their disputes. She described this incident as the worst fight they have been in. She advised the arguments are usually based on accusations of infidelity.

On January 28, 2018, Alliegh met Lt. Szabo at approximately 4:45pm at Off the Hook Restaurant in Ponce Inlet. While preparing to leave Off the Hook to go to the South Turn, Lt. Szabo got into Alliegh's car and started yelling at her. After exiting her car, Lt. Szabo left in his own vehicle and Alliegh advised she returned home at about 6:30pm. Alliegh told us she texted him that she wasn't going to South Turn but never received a response. Approximately 7:30pm, Lt. Szabo called her and began yelling at her again. Alliegh responded "I was over it, leave me alone for the rest of the night. You chose to go out and keep drinking, which is not the best idea and that's what you chose over our relationship. Just leave me alone." Following that conversation, Alliegh texted him and said "Be safe, you're always welcome here."

At 10:30pm, Lt. Szabo called Alliegh and told her he was at her door. Alliegh described him as calm and let him in her apartment. After seeing him, she described him as "Very intoxicated. I've never seen his eyeballs look like that. He looked, like, very intoxicated. He was swaying just standing there." After letting him in, Alliegh got back into bed and Lt. Szabo stood at the doorway to her room. She asked why he was

there and he responded "I want to go through your phone." Alliegh gave him her phone and he stayed in the doorway looking through Alliegh's cell phone. Alliegh told us "he was so drunk that he didn't even go through my phone, he was on his phone too." After several minutes, Alliegh placed her phone back on her nightstand while Lt. Szabo stood in her doorway for approximately thirty minutes looking through his phone. When Alliegh asked if he was staying there for the night, Lt. Szabo again asked for Alliegh's phone. She advised him that he already looked through her phone and asked what he was looking for. After this, Alliegh told us that she tried to get her phone back, he got agitated, and pulled her out of her bed by her hair. He then pushed her into the mirror in her room causing the mirror to break. While still on the ground, Lt. Szabo placed one hand on her neck while still hold her cell phone with the other. Alliegh told us once this happened, she fought back by kicking and pushing to get him off of her. Once he released her, Lt. Szabo said something like "This is the last time you disrespect me!" Alliegh continued to try to get her phone back and get him to leave. As they entered the living room, Lt. Szabo shoved her in to the corner causing Alliegh to fall to the floor and her eyeglasses to fly across the living room. She told us that this is when "he choked me out with both hands and that's when I saw stars for a little bit." Once he released her, he stomped on her eyeglasses. At this point, Lt. Szabo was looking for his phone. Alliegh suggested that he give her phone to her so she could call his. While standing at the top of the stairs, Lt. Szabo grabbed her by the neck and "slammed my head in to the wall and told me that he was in control. I'm not in control and told me to call his phone but he had to hold my phone. I couldn't hold it." Alliegh could not locate his phone in the apartment but as she exited the apartment she saw his phone in the grass outside. Once, Lt. Szabo went outside to retrieve his phone, he still wouldn't leave. She locked the door once he was outside and he began to yell and started to kick on the door. Alliegh put her phone underneath her roommate's bed and open the door because she feared that he would break her phone as he had done twice in the past. She opened the door fearing that he was about to break the door and told him to leave. He came back inside the apartment and she stayed outside. Once outside, she saw POPD arrive and went inside the apartment. She asked Lt. Szabo "what do you want me to do now? You did this." He told her "get inside, they won't know." Once inside, he told her "I'm going to go to prison over you." He gave her no further instruction regarding contact with the police.

The police separated them and began to question Alliegh. She told us that they had seen drops of blood on the entry and asked if he had cut his toe when he stomped on her glasses. She confirmed that with the police but told us he cut his toe on the broken mirror. She told us that Lt. Szabo told the police that he stubbed his toe while walking into the apartment. She told the police she just wanted him to leave and wanted them (police) to stay there until he left. When asked why her apartment was in disarray, she told them that Lt. Szabo was looking for his phone. She declined to pursue charges for vandalism or burglary. She believed that Lt. Szabo's parents picked him up from her apartment. When asked why she didn't tell Port Orange Police what had occurred initially, Alliegh responded "I was worried what was going to happen to him. When it's gotten like this before he told me I was going to be the reason that he lost his job."

Alliegh confirmed the pictures her mother had emailed to me were taken as soon as her parent's arrived to her apartment (Approximately thirty minutes after Lt. Szabo left). When asked why she changed her mind and reported the incident to police the next day, Alliegh told us "my parents made me."

Alliegh told us she has not been in contact with Lt. Szabo since that night but he text her on January 29, 2018 at 12:58pm and 3:52pm. She provided screen shots of these text messages to me following the interview (Item 11). He has made no other attempts to contact her since his arrest.

Alliegh told us that Lt. Szabo usually only drinks socially and on weekends. Most of the violent fights they've had occur after he's been drinking. Alliegh confirmed Lt. Szabo has driven to work while still under

the influence of alcohol. She confirmed she has seen Lt. Szabo drink most of the night then drive into work. She described this as "every once in a while" but not frequently.

When asked if she had anything else she would like to add, Alliegh told us he mentioned in one of the January 29, 2018 text messages that he had pictures of injuries he sustained. She told us she hit Lt. Szabo in the head while he was driving approximately one week prior to this incident after he poured a beer on her while he was driving.

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

Lieutenant Stephen Szabo:

I conducted a sworn interview with Lt. Szabo on February 8, 2018 at Public Protection Administration. Also present for this interview was HR Assistant Director Joseph Pozzo, Assistant County Attorney Michael Moore, and Lt. Szabo's Union representative Lt. Jeremiah Greathouse.

Lt. Szabo started working for VCFR in July 2004 and was promoted to Lieutenant approximately two years ago. He is currently assigned to Station 44 in Pierson.

Lt. Szabo told us he has known Alliegh for six or seven years. The last two years they have tried to have an exclusive relationship and prior to that they were friends who occasionally "hooked up." When asked if there was a history of arguments or disputes in their relationship, Lt. Szabo responded "I would say for the most part it had been very difficult for her and I to have a relationship. It's been toxic at times, yes." He advised they frequently argued about her infidelity and other "typical relationship stuff." He told us these fights sometimes involved raised voices and were occasionally physical. He estimated three physical altercations prior to January 28, 2018. He also added these situations are not mutual combat and "I never initiate and I'm never the aggressor." He told us the most recent physical fight occurred in January. While Alliegh was showing Lt. Szabo something on her phone, a man messaged her phone. Lt. Szabo said he suspected Alliegh had cheated on him with this male and they began to argue. Lt. Szabo decided to end the relationship and while driving, Alliegh grabbed the steering wheel of his truck and steered into oncoming traffic. She then struck him in the head three times with a closed fist. Lt. Szabo did not sustain any injuries and did not notify law enforcement because "I care about her and I didn't want to get her in trouble."

On January 28, 2018 at approximately 2pm, Lt. Szabo met friends, including FF Ribbink at the Landshark restaurant in Daytona Beach. After about two hours, they went to the Ocean Deck and stayed for thirty minutes to an hour. Following that, Alliegh met him and his friends at Off the Hook in Ponce Inlet where they spent approximately two hours. While leaving Off the Hook, Lt. Szabo told us "Allegh and I had a discussion on some things that I had overheard...some rumors...some more infidelity...that she had possibly been talking to other guys behind my back again. So, I addressed it and that was it." They both got into their separate vehicles and were driving to the South Turn in Daytona. While en route, Alliegh sends Lt. Szabo a text message saying she was going home and invited him over to her apartment after he was done at the South Turn. Lt. Szabo stayed at the South Turn for approximately two hours and then went to Alliegh's apartment at 10:30pm. Lt. Szabo denied being intoxicated and told us that he had approximately one drink per hour throughout the day along with eating at each establishment.

When he arrived at Alliegh's apartment, she didn't initially answer the door so he called her and she let him in. Alliegh got back into the bed and while Lt. Szabo stood in the bedroom doorway, they again began to discuss her infidelity. Lt. Szabo told us she offered him her phone and he began to look through it for an unknown amount of time. He told us he discovered "evidence" of her cheating on him and he pointed that out to Alliegh. He told us she became irate and lunged at him demanding her phone back. They both fell

into the mirror, onto the floor, and the mirror cut his foot. Lt. Szabo told us he restrained her by the arms while he tried to ease the situation. He denied ever placing his hands near her neck. He indicated to her that he was ending their relationship and left the apartment. Once outside, Lt. Szabo realized he didn't have his cell phone and knocked on the door. Alliegh eventually opened the door after he agreed to talk to her about their relationship. Lt. Szabo told us the door to the apartment remained open so "any kind of conversation we had or anything like that could be heard outside." Shortly after Alliegh located his phone, she told him three POPD Officers were walking up to the apartment and she shut the door on them. He advised her to open the door. After she opened the door, they were separated and questioned by the police. Lt. Szabo told the officers that they were having an argument and the incident was not violent. When asked why he told them it wasn't violent, Lt. Szabo again replied that he cared for her and didn't want her to get into trouble. When asked why he told the police that he stubbed his toe, Lt. Szabo initially didn't remember telling them that but later told me that he was confused, distraught, scared, and emotional over the presence of law enforcement.

Lt. Szabo had no idea how Alliegh received the bruises on her neck. He denied ever placing his hands near her neck when he restrained her after falling into the mirror, or any other time. Lt. Szabo speculated that the bruises were self-inflicted.

Given the description of the incident as described by Lt. Szabo, I asked why the living room area was in disarray (picture off of wall, shelf unit on the floor) in the pictures provided by Tina Zalich. Lt. Szabo responded "That wasn't me. I didn't touch that stand or whatever that is...picture stand?" He confirmed no physical dispute happened outside of the bedroom.

Lt. Szabo told us he attempted to call Alliegh on January 29, 2018 but she did not answer. He also referred to the text messages provided by Alliegh and told us this was the last communication he has had with her.

When questioned regarding the 2008 and 2012 charges, Lt. Szabo told us he notified DVC Ebanks and Lt. Castelli of the 2008 traffic charge at station 15 and provided copies of the paperwork to them. He was not aware of why Fire Admin would not have record of this. He told us he had no knowledge of the complaint affidavit filed against him in 2012. He did recall the incident but was not aware he was charged with a crime and therefore never reported the incident to his chain of command.

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

Conclusion:

On February 9, 2018 I received copies of the body camera video from Port Orange Police. The videos include all officers present at Alliegh's apartment in the early morning hours of January 29, 2018 and the officer involved with Alliegh at Port Orange PD later that day. Alliegh's interview with Ofc. Camara at the PD provided nearly identical information as my interview with Alliegh on February 6, 2018.

The video of the officer who makes first contact with Alliegh at her front door show her answering the door holding a pair of broken eyeglasses to her face. When the officer asks about blood on the entry, Lt. Szabo is viewed at the top of the stairs and replies that he stubbed his toe on a step, contrary to the information he provided in his interview on February 8, 2018. Once the two are separated, the same officer uses a flashlight to visually inspect Alliegh for injuries. He notes a mark on her right forearm and redness on her neck. The redness on her neck is clearly visible in the provided video.

Once Alliegh allows officers to go inside her apartment, both the living room and her bedroom are in disarray. The broken mirror is observed in the bedroom and the corner shelf in the living room is shown lying on the floor with its contents scattered on the floor.

Findings:

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

Volusia County Merit Rules and Regulations 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.

(2) Disregard for or frequent violations of county ordinances, departmental policies and regulations, including safety rules.

(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.

VCFS Standard Operating Guidelines

100.001 All members of the Department shall adhere to the rules and regulations of the Department and of all laws and ordinances of Volusia County. Failure to do so shall make members subject to disciplinary action.

100.041 Members shall not conduct themselves in an immoral, indecent, lewd or disorderly manner. They shall not be guilty of misconduct, conduct unbecoming an officer, or acts that tend to discredit the Department, even though such conduct is not specifically set forth in these rules.

Director Sanders determined that the allegations listed below are **unfounded:**

VCFS Standard Operating Guidelines

100.54 Members shall notify the Director of Fire Services, in writing, within 24 hours of the time they are arrested and/or charged with any crime. In the event the member is unable to make this notification within 24 hours due to injury, incarceration, etc. written notification is to made as soon as the member is able. Written notification shall include the date, location, jurisdiction where the charge(s) was/were filed, and the specific nature of the charge(s)

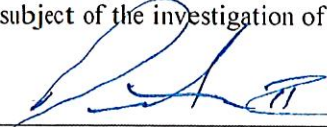
100.55 Members shall notify the Director of Fire Services, in writing, within 24 hours of the time of adjudication of any crime they have been charged with. Such written notification shall indicate the nature of the charge and the ruling.

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

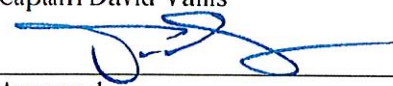
subject of the investigation of any of the rights contained in ss.112.532 and 112.533, Florida Statute.”



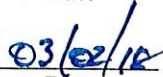
Captain David Vanis



Date



Approved
Director Terry Sanders



Date



INTER-OFFICE MEMORANDUM
Department of Public Protection
125 West New York Ave., Suite 183
DeLand, FL 32720
386-740-5120 – FAX 386-740-5283

TO: Stephen Szabo, Lieutenant
Division of Fire Rescue

DATE: March 7, 2018

FROM: Terry Sanders, Director
Department of Public Protection

FILE NO: DPP18-030

SUBJECT: NOTICE OF DISMISSAL

REFERENCE: DPP18-026 Notice of Intent to Dismiss

Purpose: The purpose of this memorandum is to provide notice of your dismissal. The effective date of this action is March 7, 2018. This action is the result of your multiple violations of Volusia County Merit System Rules and Regulations and Fire Rescue Guidelines.

You received my notice of intent to dismiss memorandum on Friday, March 2, 2018. On March 5, 2018, you requested to meet with me in regards to the notice of intent to dismiss. On March 5, 2018 at 3:00 pm, you and I met in the Public Protection Administration conference room. Also in this meeting were Deputy Directors Pat Bythwood and Mark Swanson, Human Resources Assistant Director Joe Pozzo, Division Director Jeff Smith and your union representative Justin Hughes.

In the meeting you requested to keep your position with Volusia County Fire Rescue. You did not however, provide any substantive information that would alter my decision. Therefore, I am continuing the intended action of your dismissal.

Background: On Monday, January 29, 2018 at 1742 hours, while on duty at Volusia County Pierson Fire Station 44, you were arrested by the Volusia County Sheriff's Office. You were charged with Felony Battery-Domestic by Strangulation by the Port Orange Police Department.

On January 30, 2018, you notified Volusia County Fire Rescue (VCFR) Chief Jeff Smith of your arrest via a memo titled "Required Notification." Following your notification on January 30, 2018, Chief Smith requested an internal investigation to determine the facts of your arrest. Public Protection Department Director, Terry Sanders, ordered Captain David Vanis, the Public Protection Internal Investigator, to conduct an investigation that same day. You were placed on administrative leave on January 30, 2018, and you were served with the notice of an internal investigation on January 31, 2018.

Information: On February 1, 2018, February 2, 2018, February 6, 2018 and February 8, 2018; Captain David Vanis conducted sworn interviews of the VCFR staff, two that were assigned to the same fire station as you, your direct supervisor, Battalion Chief Scott Smoak, Deputy Fire Chief Howard Bailey, Division Chief Paul Ebanks and the victim, who is identified as your girlfriend. Human Resources Assistant Director Joseph Pozzo was also in attendance during each sworn interview. Battalion Chief Justin Hughes was the Union representative in attendance for the sworn interviews conducted with FF Alec Ribbink and FF Michael Weeks. Lieutenant Jeremiah Greathouse was your Union representative

(Continued)

during your sworn interview.

On February 1, 2018, Captain Vanis conducted a sworn interview with Battalion Chief Scott Smoak. BC Smoak was assigned as BAT 40 on January 29, 2018, and was your direct supervisor. BC Smoak stated he first learned that you may be arrested from Deputy Fire Chief Howard Bailey at a budget meeting he was attending on January 29, 2018. Later that same day, after responding to a call where BC Smoak was present, you asked to speak with BC Smoak privately. At that time you advised BC Smoak that you may be getting arrested due to an argument with your girlfriend (the victim). You told BC Smoak you had been notified through a phone call by someone at "an agency" that this may occur. You stated to BC Smoak that you regretted some of the things that occurred during the argument with your girlfriend. Fifteen to twenty minutes after that conversation, BC Smoak advised you that the VCSO Deputies had arrived at the station at which time you were arrested.

The next sworn interview conducted on February 1, 2018, was with Firefighter Ribbink. FF Ribbink advised that he has worked with you at Station 44 for approximately two months. FF Ribbink stated he was with you most of the day on January 28, 2018. He met you and several other friends at the Ocean Deck at approximately 1400 hours, and then moved on with you to Off the Hook at approximately 1600 hours. You and your girlfriend (the victim) were both at that location until approximately 1900 hours when everyone, including you went to the South Turn Restaurant/Bar. According to Ribbink, your girlfriend (the victim) was not present at that location. FF Ribbink and his fiancée left you and that location at 2030 hours to go home. FF Ribbink stated you had both been drinking throughout the day, and he could not estimate how much alcohol you had consumed.

While at work on January 29, 2018, FF Ribbink said you told him that you had "another blowout" with your girlfriend the night before. FF Ribbink stated that during the shift you pulled your shirt to the side in the neck area, and displayed scratches on your neck. You then stated, "I'm saying this is self defense." While completing a transport to DeLand Hospital at approximately 1600 hours, FF Ribbink said he saw "a look" on your face while at the hospital. You told him that "she had pressed charges." You said you were afraid the police would be waiting for you when you arrived at the station.

On that same day, February 1, 2018, Captain Vanis conducted a sworn interview with FF Michael Weeks. FF Weeks stated he was just transferred to Station 44 and January 29, 2018, was his first day working with you. When asked, FF Weeks said that you looked tired. He stated that after conducting the morning equipment check, you told him you were going to take it easy today because you had an argument with your girlfriend the previous night and the Port Orange Police had responded. FF Weeks added that you stayed in your quarters until lunch time. FF Weeks further stated when you came out of your room at lunch time, you stated "tired; going to get something to eat; too much alcohol the night before; argument with girlfriend left me tired."

The next sworn interview conducted by Captain Vanis was on February 2, 2018 with DFC Bailey. DFC Bailey stated he first became aware of the incident when he received a phone call from the victim's father on January 29, 2018, sometime between 0800-1000 hours. The victim's father described to DFC Bailey the events that occurred the night before between you and your girlfriend (the victim) at her apartment. The father explained that he and his wife (her mother) observed the bruising on his daughter's neck and other parts of her body.

DFC Bailey also stated that he was contacted by the victim's mother on February 2, 2018. The victim's

(Continued)



mother offered to send DFC Bailey pictures of her daughter's injuries and the damage caused to her apartment. Captain Vanis contacted the victim's mother after the interview and had her forward the pictures to him.

On February 6, 2018, Captain Vanis conducted a telephone interview with your girlfriend (the victim). Also present in the interview was Human Resources Assistant Director Joseph Pozzo.

The victim stated she had been dating you for approximately two years and that you knew each other for seven years. She also stated you did not live together. She said that you frequently argued and that you had been violent three or four times since you two began dating. She said that the fights normally involved pushing or spitting in her face. She also advised that alcohol is usually involved when the fights have been violent. Prior to this incident, she said law enforcement had never been involved in any of your disputes. She described this incident as the worst fight, and also advised that the arguments were usually based on accusations of infidelity.

On January 28, 2018, the victim met you at approximately 4:45pm at Off the Hook restaurant in Ponce Inlet. While preparing to leave that location to go to the South Turn, you got into the victim's car and started yelling at her. After you exited her car, you left in your own vehicle and the victim advised she returned home at about 6:30pm. She said she sent you a text that she wasn't going to the South Turn restaurant, but never received a response. At approximately 7:30pm, you called her and began yelling at her again. She stated she told you, "*I was over it, leave me alone for the rest of the night. You chose to keep drinking, which is not the best idea and that's what you chose over our relationship. Just leave me alone.*" Following that conversation, the victim said she sent you a text and said "*Be safe, you're always welcome here.*"

At 10:30pm, you called the victim and told her you were at her door. She described you as calm and let you in her apartment. After seeing you, she described you as "*Very intoxicated. I've never seen his eyeballs look like that. He looked, very intoxicated. He was swaying just standing there.*" After letting you in her apartment, she got back into bed and you stood in the doorway to her room. She asked why you were standing there and you responded that you wanted to go through her phone. She gave you her phone and you stayed in the doorway looking through her cell phone. She stated "*he was so drunk that he didn't even go through my phone, he was on his phone too.*" After several minutes, she placed her phone back on her nightstand and you stood in the doorway for about another 30 minutes looking through your phone. When she asked you if you were staying the night, you again asked her for her phone. She said she told you that you already looked through her phone and asked what he was looking for. She stated she tried to get her phone back and you got agitated and pulled her out of her bed by her hair. You then pushed her into the mirror in her room causing the mirror to break. While she was still on the ground, you placed one hand on her neck while still holding her cell phone with the other hand. She said once this happened, she fought back by kicking and pushing you to get off of her. Once you released her, she said you said something like "*This is the last time you disrespect me!*" She said she continued to try to get her phone back from you and get you to leave. As you entered the living room, you shoved her into the corner causing her to fall to the floor and her eyeglasses to fly across the living room. She said that is when "*he choked me out with both hands and that's when I saw stars for a little bit.*" Once you released her, you stomped on her eyeglasses. At this point, she said you were looking for your phone.

She said she suggested that you give her phone to her, so she could call your phone in an attempt to locate it. While standing at the top of the stairs, you grabbed her by her neck and "*slammed my head in to the*

(Continued)



wall and told me that he was in control. I'm not in control and he told me to call his phone but he had to hold my phone. I couldn't hold it." She could not locate your phone in the apartment, but as she exited the apartment she saw your phone in the grass outside. Once you went outside to retrieve your phone, you still wouldn't leave. She locked the door once you were outside and she said you began to yell and started to kick on the door. She put her phone underneath her roommate's bed and opened the door because she feared that you would break her phone as you had done twice in the past. She opened the door fearing you would break the door and she told you to leave. You came back inside her apartment and she stayed outside. Once outside, she saw the POPD arrive and went inside the apartment. She asked you *"what do you want me to do now? You did this."* She said you told her *"get inside, they won't know."* Once inside, she said you told her *"I'm going to prison over you."* You gave her no further instruction regarding contact with the police.

She said the police separated you both and began to question her. She said they questioned her on how you hurt your toe. She confirmed with the police that you cut it when you stomped on her eyeglasses. When they asked her why the apartment was in disarray, she told them you were looking for your phone. She told the police she just wanted you to leave and wanted them, the police, to stay until you had left. When asked in the interview why she didn't tell the Port Orange Police what had occurred initially she responded, *"I was worried what was going to happen to him. When it's gotten like this before he told me I was going to be the reason that he lost his job."*

The victim confirmed that the pictures her mother had sent to Captain Vanis were taken as soon as the victim's parent's arrived to her apartment; which was approximately thirty minutes after you left her apartment. She advised she had not been in contact with you since that night, but that you did text her on January 29, 2018 at 12:58pm and 3:52pm. She provided screen shots of the text messages to Captain Vanis following the interview.

She stated in her interview that you usually only drink socially and on weekends. Most of the violent fights have occurred after you have been drinking. She also stated that you have driven to work while still under the influence of alcohol. She confirmed that she has seen you drink most of the night then drive to work. She described that as every once in a while, but not frequently.

When Captain Vanis asked if she had anything else she would like to add, she said you mentioned in one of the January 29, 2018 text messages that you had pictures of injuries you sustained. She said she hit you in the head while you were driving approximately one week prior to this incident after you poured a beer on her while you were driving.

On February 8, 2018, Captain Vanis conducted a sworn interview with you. Also present in the interview was Human Resources Assistant Director Joseph Pozzo, Assistant County Attorney Michael Moore, and your Union representative Lt. Jeremiah Greathouse.

You stated in your interview that you had known the victim for six or seven years. The last two years you have tried to have an exclusive relationship and prior to that were friends who occasionally *"hooked up."* When you were asked if there was a history of arguments or disputes in your relationship, you responded *"I would say for the most part it had been very difficult for her and I to have a relationship. It's been toxic at times, yes."* You advised you frequently argued about her infidelity and other *"typical relationship stuff."* You said the fights sometimes involved raised voices and were occasionally physical. You estimated three physical altercations prior to January 28, 2018. You also added the situations are not

(Continued)



mutual combat and *"I never initiate and I'm never the aggressor."* You said the most recent physical fight occurred in January, 2018. While she was showing you something on her phone, a man messaged her phone. You said you suspected she had cheated on you with this male and you both began to argue. You decided to end the relationship and while driving, she grabbed the steering wheel of your truck and steered into the oncoming traffic. She then struck you in the head three times with a closed fist. You said you did not sustain any injuries and you did not want to notify law enforcement because *"I care about her and I didn't want to get her in trouble."*

On January 28, 2018, at approximately 2:00pm, you met friends, including FF Ribbink at the Landshark Restaurant in Daytona Beach. After about two hours, you all went to the Ocean Deck and you said you stayed for about 30 minutes to an hour. Following that, your girlfriend (the victim) met you and your friends at the Off the Hook in Ponce Inlet where you spent approximately two hours. When leaving Off the Hook, you told Captain Vanis *"(The victim) and I had a discusson on some things that you had heard...some rumors...some more infidelity... that she had possibly been talking to other guys behind my back again. So I addressed it and that was it."* You said you each got into your own vehicles and were driving to the South Turn in Daytona. While en route, she sends you a text message saying she was going home and invited you over to her apartment after you were done at the South Turn. You said you stayed at the South Turn for approximately two hours then went to her apartment at 10:30pm. You denied being intoxicated and told Captain Vanis you had approximately one drink per hour throughout the day along with eating at each establishment.

When you arrived at her apartment, she didn't initially answer the door so you called her and she let you in. She got back into bed while you stood in the bedroom doorway, and you said you and she began to discuss her infidelity. You said she offered you her phone and you began to look through it for an unknown amount of time. You said you discovered "evidence" of her cheating on you and you pointed that out to her. You said she became irate and lunged at you demanding her phone back. You said you both fell into the mirror, onto the floor, and the mirror cut your foot. You said you restrained her by the arms while you tried to ease the situation. You denied ever placing your hands near her neck. You said you indicated to her that you were ending the relationship and left her apartment. Once outside, you realized you didn't have your cell phone and knocked on the door. She eventually opened the door after you agreed to talk to her about your relationship. You said the door to the apartment remained opened so *"any kind of conversation you both had or anything like that could be heard outside."* Shortly after she located your phone, she told you three POPD Officers were walking up to her apartment and she shut the door on them. You said you advised her to open the door. After she opened the door, you were both separated and questioned by the police. When asked why you told them it wasn't violent, you again replied that you cared for her and didn't want her to get in trouble. When asked why you told the police that you stubbed your toe, you initially didn't remember telling them that, but later told Captain Vanis that you were confused, distraught, scared, and emotional over the presence of law enforcement.

You said you had no idea how she received the bruises on her neck. You also denied placing your hands near her neck when you restrained her after falling into the mirror, or any other time. You speculated that the bruises were self-inflicted.

Given the description of the incident as described by you to Captain Vanis, Captain Vanis asked you why the living room area was in disarray (picture off of wall, shelf unit on the floor) in the pictures provided by the victim's mother; you responded *"That it wasn't me. I didn't touch that stand or whatever that is...picture stand?"* You confirmed no physical dispute happened outside of the bedroom.

(Continued)



You said you attempted to call her on January 29, 2018, but she did not answer. You also referred to the text messages provided by the victim and told Captain Vanis that was the last communication you had with her.

Based on the information provided by you and others in the sworn interviews of the internal investigation conducted by Captain Vanis you are in violation of the following Merit Rules and Fire Rescue Guidelines:

Volusia County Merit System Rules and Regulations Section 86-43 Conduct of employees; Sec 86-453 Reasons for Disciplinary Action (2), (8), (13), and (21):

Sec. 86-43:

(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.

Sec 86-453:

- (2) Disregard for county ordinances, departmental policies and regulations.....;*
- (8) 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.*

Volusia County Division of Fire Services-Standard Operating Guidelines-I-102.001 under General Rules 100.001:

- 100.001 All members of the Department shall adhere to the rules and regulations of the Department and of all laws and ordinances of Volusia County. Failure to do so shall make members subject to disciplinary actions.*
- 100.041 Members shall not conduct themselves in an immoral, indecent, lewd or disorderly manner. They shall not be guilty of misconduct, conduct unbecoming an officer, or acts that tend to discredit the Department, even though such conduct is not specifically set forth in these rules.*

Conclusion: Given the serious nature of your misconduct on January 28, 2018 and January 29, 2018, as outlined in the statements provided in the Internal Investigation Report of Incident, I am issuing you this notice of dismissal effective the date of this memorandum, March 7, 2018. Conduct of this nature is contrary to the standards of professionalism expected from Fire Services personnel. This action unfavorably reflects on the Division of Fire Rescue and Volusia County Government.

(Continued)

Initials

Action: In accordance with the Agreement between the County of Volusia and the International Association of Firefighters (IAFF) Local No. 3574, Lieutenants, you may choose to grieve this action through the grievance and arbitration procedure as described in the Agreement between Volusia County and the IAFF, or the grievance and appeal procedure as set forth in the Volusia County Merit System Rules and Regulations.

If you choose the grievance and arbitration procedure as described in the Agreement between Volusia County and the IAFF, you will have ten (10) calendar days from receipt of this notification to grieve this action.

Should you decide to exercise your right to appeal through the Volusia County Merit System Rules and Regulations, you must submit your written request to the County Human Resources Office, 230 N. Woodland Blvd., Suite 262, DeLand, FL 32720 within ten (10) working days of receipt of this notice. Please see Section 86-485 of the Volusia County Merit System Rules and Regulations that outlines the appeal procedures.

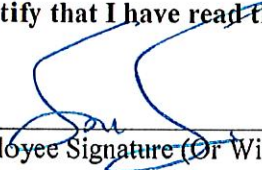
In either case, if you do not file your written grievance or appeal by the time indicated, it will be assumed that you have waived this right.

Within seven (7) calendar days of receipt of this memorandum, you are to return all County of Volusia property that was previously issued to you by Volusia County Fire Rescue. Attached is a current inventory list that was provided to me from Tammy Scott, Fire Rescue Logistics.

Dismissals that are appealed are considered non-final administrative action. If you file a notice of appeal, you will be placed in a leave of absence without pay, pending the final decision of the County Manager at the conclusion of the appeal process.

Pursuant to section 86-455, Volusia County Code, the Volusia County Legal Department and the Human Resources Director have reviewed this notice and concur with the proposed 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)

05/07/18

(Date of Signature)

cc: ___ Patricia Bythwood, Public Protection Deputy Director
 ___ Mark Swanson, Public Protection Deputy Director
 ___ Jeffrey B. Smith, Director/Fire Chief, Fire Services
 ___ Howard Bailey, Deputy Fire Chief, Fire Services
 ___ Michael Moore, County Attorney's Office
 ___ Tom Motes, Human Resources Director
 ___ Joseph Pozzo, Human Resources Assistant Director
 ___ Tammy King, EEO Coordinator