



Department of Public Protection

Report of Incident

TO: George Recktenwald, Director
Department of Public Protection

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

DATE: November 20, 2014

SUBJECT: Internal Affairs case IA2014-326
Firefighter Walter Sawyer
Fire Services

References:

1. Memos requesting/directing internal investigation.
2. Notices of Internal Investigation / Interview and advisement of rights.
3. Volusia County Sheriff's Office report/statements. Case number 140023089 (Dated August 25, 2014).
4. CJIS records reference to Case 2014 312741MMDB.
5. Sheri Keers witness interview transcript. (Dated October 3, 2014).
6. Text message thread provided by Sheri Keers (Date of messages August 21, 2014)
7. Pictures of damage caused to Sheri Keers' house (Undated)
8. Firefighter Walter Sawyer subject interview transcript (Dated November 5, 2014).
9. Firefighter Walter Sawyer Deferred Prosecution Agreement (Dated October 30, 2014).

Complaint:

On August 25, 2014, Deputy Fire Chief Bailey received information from the Volusia County Sheriff's Office that one of their deputies had arrested Firefighter Walter "Charlie" Sawyer. On August 26th, I obtained an arrest report from VCSO charging FF Sawyer with Domestic Violence Battery [FSS 784.03(1)(A)1]. This report was provided to the Public Protection Director and Deputy Chief Bailey, who was acting in the capacity of the Fire Services Director at the time.

On September 23, 2014 I directed to conduct an employee misconduct investigation into the circumstances that lead to FF Sawyer's arrest.

Information:

The VCSO report indicates that on August 25, 2014, Sheri Keers, requested a Deputy to respond to New Smyrna Beach Fire Station 53 in reference to a domestic battery that had occurred on August 21, 2014. Upon Deputy Davis' arrival, Keers advised the Deputy that FF Walter (Charlie) Sawyer had broken into

her house and "Beat her up" on the evening of August 21, 2014. The Deputy was advised the following according to his incident report:

Keers stated on 08/21/2014 she was visiting several restaurants and bars with Sawyer during the day and both were consuming alcoholic beverages. they returned to Sawyer's Residence at approximately 1330 hours. While at the residence, Keers ex husband arrived and a verbal argument ensued over her relationship status with Sawyer. After the argument, Keers returned to her house located several streets away. At approximately 1600 hours, Sawyer arrived at her residence, uninvited, and wanted to speak with her about their relationship. Keers demanded he leave because she needed to pick up her children. According to Keers that made Sawyer very angry and he started kicking her garage door causing two (2) dents. Keers left the residence and picked up her two children. At approximately 2030 hours Keers returned home to find her lawn mower damaged. She also observed the door front porch door was open and damage to the wall from the door being slammed open. Later in the evening Keers started receiving numerous text messages from Sawyer asking if she would spend the night with him at his residence. Keers replied that she needed to take care of her children and would attempt to come over later. Sawyer continued to text her and became increasingly angry that she would not walk to his house. Sawyer made threats that he was going to walk to her house to which she replied several times "No" and "Please don't I need to put my children to bed".

The text messages stopped for several minutes and Keers thought he had given up on trying to contact her. While sitting on her front porch, Keers heard a loud "Bang" and ran down stairs to see what caused the noise. When she arrived down stairs she observed Sawyer inside her residence. She also observed the frame to her front door was damaged consistent with him forcing the door open. Keers told him that she was calling 911 and grabbed her cell phone. Before she could dial any numbers, Sawyer grabbed her by the arm and pushed her body, face first into the wall causing bruise under right eye. Sawyer held her there while she screamed for her daughters help. After screaming for her daughter, Sawyer released Keers and started immediately apologizing for his actions. According to Kerns her daughter (Olivia Keers), walked into the room and observed both of them standing in the door way. Keers instructed Sawyer to leave the residence to which he complied without further incident. Minuets later Keers received several more text messages from sawyer asking her to come over. Sawyer stated in the messages that he was very upset. Sawyer then sent a picture text of a shotgun and stated "Maybe this is my way out". Sawyer texted that Keers only had five (5) minutes to come to his house or he would "Do it". Keers stated she thought Sawyer would not follow through with his threats and did not reply to him. Approximately five (5) minutes later Keers heard a gunshot that sounded from several houses away from hers. She ran to Sawyer's residence and knocked on the door to see if he was okay. Sawyer answered the door and advised he was fine and he shot off his gun to get her over to his house. Keers was very upset and left his residence. Keers went to work, on 08/22/2014 and her lieutenant, Michael Lynn (WI), observed the bruise under her eye. Keers explained the incident to him which he advised she should call the Volusia county sheriff's Office for assistance. Keers completed a written and sworn statement detailing the incident. Keers was adamant about not pursuing charges for the incident.

After obtaining a statement from Ms. Keers, Deputy Davis contacted FF Sawyer at his residence in New Smyrna Beach. FF Sawyer told the Deputy that he did kick the garage door in anger and tipped over the lawn mower while looking for his cell phone. FF Sawyer also admitted to sending continuous text messages and "pushed" Keers' door in. Sawyer claimed that a small struggle ensued and Keers "hit her face into the wall." FF Sawyer claimed the struggle was an accident and never intended to cause Keers

harm. FF Sawyer further admitted to texting a picture of a shotgun and firing a shot into the ground. FF Sawyer told the Deputy that at the time of the incident, he did have suicidal thoughts.

FF Sawyer was then arrested and charged with Domestic Violence Battery. His firearms were confiscated due to the likelihood of him "causing harm to himself or others."

See item 3 for the complete VCSO report and statements from Ms. Keers and Michael Lynn.

On September 15, 2014, Sheri Keers obtained a Temporary Protection Order with FF Sawyer named as the respondent. The order restrained FF Sawyer from any violent contact with Ms. Keers, no firearm use or possession, and to stay away from the residence of the protected person.

FF Sawyer was served a permanent Order of Protection (Injunction) on October 7, 2014 containing the same terms as the Temporary Order.

Sheri Keers:

Ms. Keers agreed to be interviewed in regards to this investigation. I conducted a sworn and recorded interview with Ms. Keers on October 3, 2014 at her place of employment in New Smyrna Beach.

Ms. Keers told me that she and FF Sawyer had been in a relationship for approximately two years. Seven months of which they lived together and were engaged to be married. Ms. Keers had ended the engagement and FF Sawyer moved out several months earlier but the two still had a romantic relationship. Ms. Keers told me that she and FF Sawyer currently live in separate houses on the same block.

Ms. Keers told me that on August 21, 2014, she and FF Sawyer had gone to Chase's Restaurant in new Smyrna Beach for lunch. She stated that they each had one drink at lunch and did not visit multiple bars as stated in the VCSO report. After lunch they returned to FF Sawyer's house and were "hanging out." While at Sawyer's house, Ms. Keers' ex-husband knocked on the door which she felt was not appropriate. She described her relationship with her ex-husband as friendly but with certain boundaries. She felt like him showing up at Sawyer's house crossed that boundary. Ms. Keers left the house and walked to hers down the street while FF Sawyer and her ex-husband talked outside.

Ms. Keers explained that she has an understanding with FF Sawyer and her ex-husband that neither is allowed to go to her house without an invitation. She told me "...my house is me and my kids" and "my house is pretty much off limits." Shortly after arriving home, Ms. Keers' ex-husband came to her house to discuss the afternoon's plans with their children and, sarcastically, discussed her and Sawyer's relationship. Shortly after her ex-husband's arrival, FF Sawyer arrived at her house. She told me that both invited themselves inside the house and drank four beers while "making exchanges with me." Once her ex-husband left with their two children, Sawyer stayed at the house for approximately forty-five more minutes talking with her. Ms. Keers then told Sawyer that she wanted to be left alone to process the afternoon's events and told him she would be down on the beach for a couple hours.

When Ms. Keers returned from the beach at approximately 1930 hours, she noticed that FF Sawyer's truck was parked in her driveway. As she walked into her house, she found Sawyer sitting on the couch drinking a beer. Keers questioned why he was in her house and told him that she would like to spend the night alone after she goes to pick up her children. Sawyer asked to go with her to pick up the children and Keers responded that she would go alone. Sawyer then told her that he would wait for her at her house and she again responded that she would like to spend the night alone with her children. She told him "I

didn't invite you in Charlie. Like...this is not OK." At this point, Ms. Keers described FF Sawyer as becoming unreasonable. She told me that she did not know how much he had drank that day but had seen this type of behavior from him in the past when he drinks a lot. The two got into an argument about him returning to his house and him wanting to move back in with her. Keers eventually "scooted him out." As she was leaving her house to pick up her children, FF Sawyer kicked her garage door twice in anger causing minor dents in the door. Ms. Keers continued to her ex-husband's house to pick up her children.

Upon her return to her house, Ms. Keers noticed that her lawnmower, which was left on the side of the driveway, was now dismantled in the middle of the driveway. As Ms. Keers went up the stairs to the house's front door, she told me that "he (FF Sawyer) had busted in the front door." She stated that prior to leaving, she had locked the door handle and the door appeared to have been kicked in by FF Sawyer causing damage to the door frame. After making sure that FF Sawyer wasn't inside the house, she locked all doors including the deadbolt on the front door. Shortly after this, FF Sawyer began texting her to "come see him." She replied in text that "you just kicked my door in!" and "you need to let me be. Let me hang out with my daughter for the night." After repeated text messages from FF Sawyer asking that Ms. Keers go to his house, she eventually replied that they would talk after she got her children situated for the night. FF Sawyer sent several text messages at this point. Ms. Keers stated "...and he's like no, no, now, now, now." She described FF Sawyer as unreasonable at this point.

After her children went to sleep, Ms. Keers heard a loud banging on her front door. As she approached the door she told me the following:

The dead bolt was locked at this point. I had it dead bolted so he kicked it. I mean he's a firefighter so it's like what it takes three kicks in the right spot and phewww. So I mean he...so he kicked the door open, came in, and I ran. I had my hands full and I say... here's the door and then here's my dining room table, I'd like to set this thing down and call 911. So I had threatened to call 911. I threatened to tell his wife. I'm like you know you don't realize what you have on the line. Just quit doing this because I'm ready to call and I'm like don't put this stuff on the line. I don't think he...so I mean he's just (inaudible)...and so anyway I went to call 911 and he grabbed my hand and uhm he was like...it kind of like...he came up behind me and pushed me...like into the wall like that.

Ms. Keers showed me that FF Sawyer had pushed her into the wall by placing his hand in the middle of her back and forcing her upward and into the wall where her face was pinned for a moment. Ms. Keers screamed for her daughter and as she (Keer's daughter) approached the room, FF Sawyer released Ms. Keers. Ms. Keers then told her daughter to return to her room as she began to yell at FF Sawyer to get out of her house. FF Sawyer told her that it was an accident and that she had fell into the wall. Ms. Keers said she was furious at this point as she continued to scream at FF Sawyer to leave her house. Once he left her house, Ms. Keers had thought about calling 911 but did not wish to damage FF Sawyer's career due to an arrest.

FF Sawyer continued to text her requesting that she come over and talk. After Ms. Keers refused to go to his house or speak to him several times via text message, FF Sawyer sent her a picture of a shotgun and wrote "maybe this is my path." He then texted that she has ten minutes to come over and began counting down by text message. Shortly after, Ms. Keers heard a gunshot and ran over to FF Sawyer's house to check on his well being. When Ms. Keers got to FF Sawyer's front door, she yelled for him to come to the door. He answered the door and then jumped in a bed and asked Ms. Keers to come lay beside him. She replied "You're psycho!" and returned to her house. Once at her house, Ms. Keers received more text messages from FF Sawyer stating "well now you called me out and I have to do it for real." Ms. Keers

turned off her phone at this point and told me that she had not been in contact with FF Sawyer since that evening.

The following Monday, August 25, 2014, Ms. Keers supervisor noticed bruising on her face and inquired about what had caused the bruising. She described the incident, and after discussing it with him, she decided to notify VCSO of the incident. She also told me that since she had obtained the Protection Order that FF Sawyer has not made any attempts to contact her even though she frequently sees him in their neighborhood.

At the conclusion of the interview, Ms. Keers told me that she still cares for FF Sawyer and does not want this incident to damage his career as a Firefighter. She wants him to receive help for his alcohol abuse issues. Ms. Keers provided me screen shots of the text thread between her and FF Sawyer on August 25, 2014 and pictures of the damage caused to her house by FF Sawyer on the same date. Both were added to the case file as items 6 and 7.

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

I continued to monitor FF Sawyer's criminal case status through the CJIS database. On October 30, 2014, the criminal case was closed. The final disposition was a Deferred Prosecution Agreement. I provided FF Sawyer his interview notice on the October 30, 2014 and gave him copies of the VCSO report, Sheri Keers' interview transcript, and the pictures and text messages provided by Ms. Keers.

Firefighter Walter (Charlie) Sawyer:

I conducted a sworn subject interview with FF Walter Sawyer on November 5, 2014 at Fire Station 11 in Holly Hill. FF Sawyer was accompanied by his Union Representative, VCFS Lt. John Bryant. FF Sawyer acknowledged that he had reviewed the provided documentation.

FF Sawyer told me that the reason for ending his and Ms. Keers engagement was that she had been having an affair with her ex-husband and began seeing the ex-husband after the engagement was ended. This created a very tense relationship between him (Sawyer) and Keers' ex-husband. FF Sawyer told me that her ex-husband viewed him as an "infiltrator" in their family. FF Sawyer also added that Ms. Keers had been physically abused by her ex-husband during their marriage and since then during their affair. FF Sawyer acknowledged that Ms. Keers had told him that her house was "off limits" but she never enforced this rule with either him or her ex-husband. FF Sawyer frequently visited her residence.

FF Sawyer described the events on August 21, 2014 very similar to Ms. Keers. After returning to his house with Ms. Keers from Chase's Restaurant, Ms. Keers' ex-husband knocked on his door. Ms. Keers left his house and he had a "friendly" conversation with her ex-husband. He acknowledged that he then went to Keers' house and spoke with her after her ex-husband had left. He described her as distraught due to her ex-husband taking her children with him when he left. Sawyer left so that Ms. Keers could go for a run alone as she had requested. FF Sawyer told me that he did allow himself into Ms. Keers house while she was gone through the unlocked front door. FF Sawyer told me that at this point he does feel that he was intoxicated after drinking several beers. He did not know an exact number of drinks. After Ms. Keers returned, they got into an argument because he did not want her going over to her ex-husbands house without him and he had insisted that he move back in with her. He agreed that he was acting unreasonable at this point but left the house when requested. As she left, FF Sawyer admitted that he kicked the garage door in anger and threw his cell phone. He acknowledged that the lawn mower fell over and broke while he was looking for his cell phone. He further explained that he kicked-in Ms. Keers' front door in anger but did not make entry into the house. He then returned to his house and began sending Ms. Keers

numerous text messages to get her to come over to his house or for him to go to her house. He did not know why he kept sending text messages even though she kept saying “no.”

Ms. Keers still refused to talk with him or come to his house as she had told him she would earlier in the day. FF Sawyer stated he had continued to drink beer and eventually went back over to her house around 2200 hours. He said after banging on the door, he went to push the door open with his shoulder and it broke the door frame. He denied kicking the door this time. He explained that the door normally sticks and usually needs to be pushed open. He acknowledged that he had come over after being told not to by Ms. Keers in an effort to talk to her. He told me that he did know that her children were home at this time. FF Sawyer explained that Ms. Keers came running toward him and as she ran past him, he grabbed her arm and after a “struggle” they both fell into the wall. He described the struggle as her pulling away while he pulled her towards him. He could not recall if Ms. Keers told him anything at this point including “Get out of my house” or “I’m calling 911.” He described himself as enraged at this point. He did acknowledge that Ms. Keers’ description could be accurate but he wasn’t sure. He told me “I wasn’t trying to hurt her, I wasn’t there to hurt her.”

After Ms. Keers’ daughter entered the room, FF Sawyer said that he went outside and talked with Ms. Keers on the stairs outside her house. He only remembered her telling him that “this wasn’t ok.” He did not recall her yelling or screaming at him to leave.

After he returned home he continued to text Ms. Keers to come and talk because he wasn’t satisfied with the conversation they had just had on her stairs. Ms. Keers repeatedly said “no.” FF Sawyer acknowledged that he sent the picture of the gun to let her know that he was upset and he would place the blame on her. FF Sawyer told me that at the time he did have thoughts of committing suicide but the picture was also an attempt to get Ms. Keers to come over to his house. FF Sawyer told me that he “shot a shotgun shell off into the ground.” When Ms. Keers came over, she quickly left after refusing to talk to him and went back home.

After reviewing the VCSO report and Ms. Keers’ interview, FF Sawyer agreed with most of what was stated by Ms. Keers and the report. He contended that they had only gone to Chase’s Restaurant and not “several restaurants and bars” as stated in the VCSO report. This was also verified by Ms. Keers’ statement. He also told me that his recollection of the actual battery against Ms. Keers was not accurate. He told me that after he grabbed her, they were in a struggle and fell together into the wall. He denied pushing her into the wall.

FF Sawyer told me that he had complied with all court orders he had been given including pre-trial services. He told me that he had entered into a Deferred Prosecution Agreement. He explained that if he complies with the terms of this agreement which include a psychological screening, classes for domestic violence intervention, anger management and substance abuse, that his charges will eventually be dismissed. During this time he will be supervised and not allowed to enter bars or consume alcohol and/or drugs. He told me that he has already started most of the classes and is awaiting a date for the psychological screening.

FF Sawyer was not sure if alcohol caused the events on August 21, 2014. The large amount of pressure and stress caused by his ex-wife and her family was a very likely contributor as was his alcohol consumption on that day. He told me that he had been trying to get assistance for his family issues through EAP and speaking with supervisors within VCFS prior to this incident. He told me that he wanted more help but was told additional help was not available. He told me that he eventually got some help from his Union President after this incident occurred. FF Sawyer told me that he does have an alcohol problem and is currently getting help with alcohol abuse. He told me that he will continue AA

classes and substance abuse counseling and hopes to remain sober even after he is no longer court ordered to do so.

FF Sawyer told me that there was no more contact with Ms. Keers that evening. FF Sawyer told me that he has spoke with Ms. Keers and has “hung out” several times recently. The last time he saw her was Saturday November 1, 2014 when she stayed at his house for the night.

FF Sawyer and Lt. Bryant declined to make a voluntary statement or to clarify any of the topics of this investigation at the conclusion of the interview.

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

Conclusion:

As a result of his actions on August 21, 2014, Firefighter Sawyer was arrested for Domestic Violence Battery [FSS 784. 03(1)(A)1]. This charge will most likely be dismissed once FF Sawyer completes the terms of the Deferred Prosecution Agreement he signed on October 30, 2014.

By his own admission during a sworn interview, he did commit the offense of Domestic Violence Battery against Sheri Keers, a woman who he was currently intimate with and was previously engaged and cohabitating with. Even though the admitted battery is not consistent with the statement of Ms. Keers, the crime did occur according to FF Sawyer’s statement. In addition, FF Sawyer was not charged with the offenses of Burglary [FSS 810.02(2)a a first degree felony] and Criminal mischief [FSS 806.13(1)(b)1 a second degree misdemeanor], even though he admits to both. This was apparently due to Ms. Keers decision not to pursue criminal charges.

Additionally, FF Sawyer admits to sending a picture of a firearm to Ms. Keers via text message and later discharging that firearm into the ground outside his residence in an attempt to persuade Ms. Keers to see him.

The above actions were committed while FF Sawyer was under the influence of alcohol and he was admittedly intoxicated. FF Sawyer admitted that he does have an alcohol abuse problem and is currently seeking assistance for this issue. FF Sawyer blamed his actions in part to alcohol consumption but stated that he was under immense pressure and stress due to ongoing issues with his ex-wife and her family.

Findings:

Based upon his own admissions, I recommend that the following allegations against FF Walter Sawyer are **sustained**:

Volusia County Merit Rules and Regulations. Sec. 86-453. Reasons for disciplinary action (8): Criminal, dishonest or other conduct which interferes with effective job performance or has an adverse effect on the efficiency of county service.

Volusia County Merit Rules and Regulations. Sec. 86-453. Reasons for disciplinary action (13): Any conduct, on or off duty, that reflects unfavorably on the county as an employer.

Volusia County Division of Fire Services Standard Operating Guidelines 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.

Volusia County Division of Fire Services Standard Operating Guidelines 102.02 Fire Station Privacy, Decorum, and Conduct H. Conduct: *It is the responsibility and obligation of each employee/member to follow all local, state, and federal laws and to comply with all County rules, regulations, directives, policies, etc. In addition, each employee/member shall respect the privacy of every other employee/member and conduct themselves in a proper and professional manner.*

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

11/20/14

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: Walter Sawyer, Firefighter/EMT
Division of Fire Services

DATE: December 29, 2014

FROM: George Recktenwald, Director
Department of Public Protection

FILE NO: DPP14-137

SUBJECT: Notice of Intent to Dismiss

REFERENCE:

Purpose: The purpose of this memorandum is to provide you with notice of intent to dismiss you from employment. The intended action is the result of your violations of County Policy and Division Guidelines.

Background: On August 25, 2014, you were arrested by the Volusia County Sheriff's Office for domestic violence battery. On September 23, 2014, I directed Captain Dave Vanis, Office of Internal Affairs, to conduct an investigation into your arrest. Based upon this investigation, violations of Volusia County Merit Rules and Regulations, along with Volusia County Fire Services Standard Operating Guidelines were sustained, as noted below.

Information: On August 25, 2014, the Volusia County Sheriff's Office was contacted by a woman who advised that on August 21, 2014, you had broken into her home and "beat her up." According to the VCSO incident report, the victim, your former live-in fiancé, reported that on that date, after a series of events, you forced the door to her home open and battered her as she attempted to call 911. The victim reported that you grabbed her by the arm and pushed her body, face first into a wall, causing bruising under her right eye. After returning to your home, you sent text messages which implied that you intended to shoot yourself with a shotgun, and then discharged the gun at your residence to get the victim to come to your house.

In a sworn interview with Captain Vanis, the victim stated that after having lunch together, you both returned to your house, which is in close proximity to hers, and were "hanging out." She advised that, while there, her ex-husband arrived at your home, which she felt was inappropriate, so she left and went to her own house. Shortly thereafter, the victim's ex-husband came to her house to discuss afternoon plans for their children and then you arrived. The victim stated that you and her ex-husband consumed about four (4) beers, that he then left with their children and you stayed at her home for about forty-five (45) more minutes. The victim advised that she asked you to leave so that she could "process the afternoon's events," which had included discussions about your ongoing relationship.

The victim went to the beach for a couple of hours, returning at about 7:30PM to find your truck in her driveway and you sitting inside her home, drinking a beer. She questioned you as to why you were in her house and told you that after she picked her children up, she wanted to spend the night alone with them. After asking to go with her to pick up the children or to wait at her house for her, she told you that it was not "ok" for you to be in her home at that time as she did not invite you. The victim described your behavior as unreasonable and advised that she had seen you act that way in the past when you had consumed "a lot" of alcoholic beverages.

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The victim stated that when she left to pick up her children, you were angry and kicked her garage door twice, denting it. When the victim returned with her children, she noticed her lawnmower was dismantled in the middle of her driveway and discovered that you had “busted” in her front door, damaging the door frame. After making sure you were not inside her house, the victim dead bolted her front door. She stated that you then began texting her, asking her to come to your house and making unreasonable demands.

The victim said that she told you she would talk to you after she got her children settled for the night but thereafter, you arrived at her home, began banging on her front door and then kicked it in. When she told you she was going to call 911, you grabbed her hand, pushed her from behind, forcing her upward and into a wall where her face was momentarily pinned, releasing her only when the victim’s fifteen (15) year old daughter responded to her mother’s screams. The victim stated that you immediately said it was an “accident,” telling her that she had fallen into the wall. She said you left after she screamed at you to leave, but she did not call 911 at that time because she was concerned about how an arrest would affect your career.

The victim stated that you still continued to text her, asking her to come over to talk and she refused. You then sent her a picture of a shotgun, telling her she had ten (10) minutes to come over, counting down by text, saying, “maybe this is my path.” You then discharged the gun at your home, which the victim heard from her house. When she ran to your house to check on your well-being, you answered the door, jumped in bed and asked her to lay with you. She refused and returned to her home, only to receive more text messages from you, threatening to “do it for real.” The victim turned off her phone at that time and had no further contact with you that night. When she went to work after the incident, four (4) days later, her supervisor saw the bruising on her face and discussed with her what you had done, at which time the victim decided to contact VCSO. Thereafter, she obtained an injunction to keep you from attempting to contact her. She stated that she did not want the incident to damage your career but wants you to seek help for alcohol abuse.

In your sworn interview, your description of the events of August 21st was very similar to that of the victim. Although you stated that you were not sure if alcohol caused the events that night, you did feel that you were intoxicated at some point. You admitted going into the victim’s home through the unlocked front door while she was at the beach after her ex-husband left with her children. You admitted getting into an argument with her when she returned, that you were acting unreasonable and that when you left at her request, you kicked the garage door in anger and threw your cell phone. You said that the lawnmower fell over and broke while you were looking for the cell phone.

You also admitted kicking in the front door in anger when the victim later left to pick up her children but said that you did not enter her house at that point. You admitted sending her numerous text messages trying to get her to come over to your house or to be allowed to go back to hers, although you state you do not know why you did so since she kept telling you “no.” You stated that you continued to drink beer and eventually went back to the victim’s home at about 10:00PM, even though you knew her children were there and you had been told not to come over. You admitted banging on the front door, but said you did not kick it in, but instead had pushed it open with your shoulder, breaking the door frame.

As for the physical confrontation, you stated that as the victim ran past you when you forcibly entered her home, you grabbed her arm and, as she tried to pull away from you, you both fell into the wall. You admitted being enraged at that time and stated that the victim’s description of what occurred could be accurate, but you weren’t sure. You denied pushing her into the wall. You stated that you were not trying to hurt her and that you did not go there to hurt her. When the victim’s fifteen (15) year old daughter entered the room, you said you went home but continued to text her because you weren’t satisfied with how things were left between you. You acknowledged that the victim repeatedly refused to come to your house so you sent her the picture of the shotgun so that she would know you were upset and to try to get her to come to your house. You admitted that

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you did have thoughts of suicide and wanted her to know that you would place the blame on her if you hurt yourself. You admitted shooting off a shotgun shell into the ground.

You were arrested and charged with domestic violence battery. Although the criminal charge is still pending, you have entered into a deferred prosecution agreement and, provided you comply with the terms, the charge will be dismissed. The terms include, among other things, anger management, substance abuse evaluation and treatment and a mental health evaluation and treatment.

In reviewing your personnel folder, I note that this is not the first time that you have been arrested for domestic violence battery and been afforded the opportunity to enter into a deferred prosecution agreement in exchange for the dismissal of the charge. On June 9, 2012, you were arrested by New Smyrna Beach Police Department for domestic violence battery for grabbing your ex-wife, with whom you were living at the time, pushing her through a hall into a bedroom, where you pinned her to the bed with your forearm across her collar bone, leaving visible marks. In that case, you entered into a twelve (12) month deferred prosecution agreement which also required you to complete anger management and substance abuse evaluation and treatment. Apparently you did complete this, and those charges were dismissed. Due in part to your lack of prior discipline, you were given a written reprimand for your actions in that case and were advised at that time that continued adverse behavior may result in more severe disciplinary action to include dismissal.

In addition to your recent arrest, you continue to demonstrate a problem with your attendance. On October 12, 2014, you were AWOL and did not report to your assigned duty station. Division Chief Paul Ebanks called your cell phone to find out if you were reporting to work and you stated that you must have forgotten to set your alarm. You have received disciplinary action for being AWOL or tardy on two prior occasions, one as recently as September 21, 2014 for which you received a twelve (12) hour suspension. This was preceded by an EPN on November 20, 2013 for tardiness which also noted other tardy dates (06/05/11, 11/15/09, 06/18/09, and 03/20/09).

Violations: Your actions with regard to your arrest on August 25, 2014 violated the following:

Volusia County Merit System Rules and Regulations –Division 13 Reasons for Disciplinary Actions Sec 86-453 Reasons for Disciplinary Action:

(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.*

Volusia County Division of Fire Services – Standard Operating Guidelines- I-102.001 under General Rules 100.41, and I-102.002 Fire Station Privacy Decorum and Conduct, (H) Conduct:

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.

102.002 (H) Conduct:

It is the responsibility and obligation of each employee/member to follow all local, state, and federal laws and to comply with all County rules, regulations, directives, policies, etc. In addition, each employee/member shall respect the privacy of every other employee/member and conduct themselves in a proper and professional manner.

(Continued)

You were also determined to have violated the following by being AWOL from duty on October 12, 2014:

Volusia County Merit Rule 86-453 (4): *Frequent tardiness or absence from duty without prior approval.* and

Volusia County Division of Fire Services – Standard Operating Guidelines- I-102.001 under General Rules 100.001; 100.036

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.

100.036 Members who are unable to report for scheduled duty because of sickness or other reason, shall call their supervisor twenty-four hours in advance or as soon thereafter as possible, and in any event, no less than two hours before commencement of duty.

Conclusion: Accordingly, and based on the recommendation of Fire Chief Jeff Smith and the review of the events surrounding your arrest for domestic violence battery on August 25, 2014 as well as your lack of dependability, I am issuing this letter of intent to dismiss. Your pattern of behavior in being arrested a second time for domestic violence battery is unacceptable and cannot be tolerated. It is particularly disturbing in light of the your having been warned in the past about the consequences of continuing or repeating this behavior. Clearly, you did not learn from your past mistake and did not appreciate the break you received both in the criminal case and as to discipline.

I also note that your actions that night in forcibly entering the victim's home and shooting your shotgun inside your home are also acts which constitute criminal behavior, even though you were not formally charged. Conduct of this nature is detrimental to the standards of professionalism expected from Fire Services personnel. Your conduct is unacceptable, sets an extremely poor example, and unfavorably reflects on the Division of Fire Services and Volusia County Government.

Action: In accordance with section 86-455 (f) of the Merit System Rules and Regulations, you may respond either orally or in writing to this intended action. If you wish to respond, such response will not be accepted after Thursday, January 1, 2015, at 1630 hours. I may be reached at 386-740-5120 or by e-mail at: GRecktenwald@volusia.org. If you do not contact me by the time indicated, it will be assumed that you have waived this right. Should your response be inadequate or should you fail to respond in a timely manner, this action will proceed.

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

GR/tab

cc: ___ Terry Sanders, Deputy Director, Public Protection ___ Tom Motes, Human Services Director
 ___ Jeff Smith, Director/Fire Chief, Fire Services ___ Tammy King, EEO Coordinator
 ___ County Attorney's Office

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

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

(Date of Signature)