



Department of Public Protection

Report of Incident

TO: George Recktenwald, Director
Department of Public Protection

FROM: David Vanis, Captain
Public Protection Administration
Internal Affairs

DATE: June 11, 2015

SUBJECT: IA2015-02, John Bryant, Lieutenant, Fire Services

Witnesses:

Steven Huber, Lieutenant, VCFS
Timothy Martin, Division Chief, VCFS
Charles Kamine, Battalion Chief, VCFS
Andrew Millwater, Lieutenant, VCFS
Howard Bailey, Deputy Chief, VCFS

References:

1. DPP15-043. Memo from Director Recktenwald to Captain Vanis directing an investigation (Dated April 20, 2015)
2. Memo from DC Martin to DC Bailey (Dated April 9, 2015).
3. Pictures of text messages (Dated April 2 and 3, 2015).
4. Screen shot of Lt. Bryant's facebook page provided by DC Martin (undated).
5. Lieutenant Huber witness interview transcript (dated April 21, 2015).
6. Division Chief Martin witness interview transcript (dated April 27, 2015).
7. Battalion Chief Kamine witness interview transcript (dated April 29, 2015).
8. Lieutenant Millwater witness interview transcript (dated May 5, 2015).
9. Deputy Chief Bailey witness interview transcript (dated May 5, 2015).
10. Lieutenant Bryant subject interview transcript (dated May 7, 2015).

Background:

Division Chief Timothy Martin conducted a supervisory inquiry into the circumstances surrounding Lieutenant John Bryant's utilization of unscheduled sick leave on Saturday April 4, 2015. He submitted a report to Deputy Chief Howard Bailey on April 9, 2015 and the following is a summary of that inquiry.

On April 3, 2015 Lt. Bryant contacted DC. Martin to advise him that he would be unavailable to work his scheduled shift on Saturday April 4, 2015 due to [REDACTED] Lt. Bryant further advised that DC Bailey was aware [REDACTED] after DC Martin attempted to persuade Lt. Bryant to work because two other personnel had already been mandated to backfill shifts on April 4th, 2015. After granting Lt. Bryant the unscheduled leave, DC. Martin advised Lt. Huber that he was mandated to work Lt. Bryant's shift on the following day. Lt. Huber was mandated due to his position on the Telestaff mandate list.

After accepting the mandate, Lt. Huber showed DC Martin a text message conversation between him and Lt. Bryant on April 2, 2015. Lt. Bryant initiated the conversation by asking Lt. Huber if he was available to work a time trade on April 4, 2015. Lt. Huber advised that he couldn't due to plans with his family.

Shortly after, DC Martin was contacted by Battalion Chief Steve Luciano who was already aware of Lt. Huber's mandated shift. BC Luciano told DC Martin that fifteen minutes prior to Lt. Bryant's phone call, Lt. Bryant had posted to facebook that he was at the beach with several other Fire Services personnel. DC Martin was also advised that Lt. Millwater had cancelled a time trade that was originally scheduled with Lt. Bryant on April 4, 2015.

DC Martin attempted to contact Lt. Bryant after learning the above information. That night (April 3, 2015) DC Martin sent Lt. Bryant a text message stating "John can you please contact me ASAP?" Lt. Bryant responded "yes sir" but never called DC Martin.

On April 9, 2015, DC Martin spoke with BC Charles Kamine who stated that he had seen Lt. Bryant in downtown Deland the evening of April 4, 2015 (the date Lt. Bryant was originally scheduled to work) during the Deland Firefighter's Pub Crawl.

Based upon the information provided by other Fire Services personnel, DC Martin completed a memo documenting Lt. Bryant's sick leave and requested "some inquisition of Lt. John Bryant" regarding the appearance that he misused sick leave.

Information:

On April 20, 2015 Fire Services Chief Jeff Smith requested that Director Recktenwald open an internal investigation into Lt. Bryant's use of sick leave on April 20, 2015. Director Recktenwald subsequently directed me to conduct the requested investigation. On April 28, 2015, I provided Lt. Bryant a notice of investigation at Fire Station 12 in Port Orange.

Lt. Steven Huber:

I conducted a sworn interview with Lt. Huber at Fire Station 35 on April 21, 2015.

Lt. Huber told me that he was contacted by DC Martin while on shift on April 3, 2015 and advised that he was mandated to work the following shift for Lt. Bryant on April 4, 2015. Lt. Huber told me that he was

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expecting to be mandated that weekend due to his location on the Telestaff mandate list and since it was a holiday weekend.

Lt. Huber further advised that he was contacted via text message on April 1st or 2nd, 2015 by Lt. Bryant. Lt. Bryant requested a time trade with Lt. Huber on April 4, 2015. Lt. Huber denied the request due to a scheduled family event. Lt. Bryant did not offer a reason for the time trade request. After receiving the mandate from DC Martin, Lt. Huber showed DC Martin the text message exchange he had with Lt. Bryant. Lt. Huber provided DC Martin a screen shot of the text messages.

Lt. Huber worked his mandated shift on April 4, 2015 at Station 12 on April 4, 2015 and had no further involvement in this incident.

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

Division Chief Martin:

I conducted a sworn interview with DC Martin at Fire Station 15 on April 27, 2015.

DC Martin is the A Shift Division Chief. Part of his responsibilities includes the receipt of sick calls from the next shift's (B Shift) personnel and making schedule adjustments as needed. DC Martin advised that Lt. Bryant works on B Shift and would normally contact him (Martin) if he was unable to work the following shift due to illness or injury. DC Martin told me that he had not noted any excess leave usage by Lt. Bryant in the past and does not remember Lt. Bryant telling him that [REDACTED] as a reason for sick leave prior to April 3, 2015.

When Lt. Bryant contacted DC Martin on April 3, 2015, DC Martin attempted to convince the Lieutenant to come in on the fourth since he had already started to use the mandate list. Lt. Bryant maintained that he would not be able to work his following shift and told DC Martin that Chief Bailey was aware [REDACTED]

DC Martin explained that the mandate list is only used if there are no qualified personnel that have volunteered to work overtime on that shift. Due to Lt. Huber being the next qualified person on the mandate list, he was ordered to work on the fourth for Lt. Bryant. Approximately fifteen minutes after being mandated, Lt. Huber showed DC Martin the text message exchange from April 2, 2015. Lt. Huber also told DC Martin that Lt. Bryant originally had a time trade scheduled with Lt. Millwater but that had been cancelled by Lt. Millwater.

After receiving this information from Lt. Huber, DC Martin became suspicious that Lt. Bryant was not sick but had previous plans not to work on April 4, 2015. DC Martin sent Lt. Bryant a text message stating "John can you please contact me ASAP?" Lt. Bryant replied "yes sir," but never called DC Martin. I took a picture of these text messages and added them to the case file as item 3.

On April 3, 2015, DC Martin was also contacted by BC Luciano, who is one of the Battalion Chiefs on his shift. BC Luciano told DC Martin that he had seen a facebook posting on Lt. Bryant's facebook page that indicated that he was at New Smyrna Beach with several other Fire personnel at the time of the sick call. Lt. Luciano provided DC Martin with this facebook post. BC Luciano became aware of Lt. Huber's mandate due to his position as Lt. Huber's direct supervisor. The facebook posting is listed as item 4.

While DC Martin was discussing this incident with Chief Bailey on April 9, 2015, BC Kamine overheard the conversation and told both chiefs that he had seen Lt. Bryant in downtown Deland on April 4, 2015. BC Kamine added that he was there due to the Deland Firefighter's Pub Crawl which is a charity event hosted by the Deland Fire Union.

Based on the new information provided by BC Kamine, DC Martin felt that Lt. Bryant may have utilized sick leave so that he could attend the Pub Crawl and requested further investigation into the incident through his chain of command.

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

Battalion Chief Charles Kamine:

I conducted a sworn interview with DC Martin at Fire Station 15 on April 29, 2015.

BC Kamine was in Chief Bailey's office sometime the week following April 4, 2015. He told me that he overheard Chief Bailey and DC Martin discussing Lt. Huber's dissatisfaction with being mandated on the previous weekend. When he heard that Lt. Bryant's sick call was the catalyst for Lt. Huber's mandate he remembered that he had seen Lt. Bryant at the Deland Firefighter's Pub Crawl on the same date. BC Kamine told me that he was attending the event, along with many other firefighters from the county, and ran into Lt. Bryant near the Irish Pub somewhere near Indiana Avenue in Deland. BC Kamine advised that Lt. Bryant was not drinking and they had a short conversation. BC Kamine was not aware that Lt. Bryant was on sick leave at the time and made no other observations.

This interview was recorded and transcribed. It was added to the case file as item 7.

Lieutenant Andrew Millwater:

I conducted a telephone interview with Lt. Millwater on May 5, 2015.

Lt. Millwater told me that Lt. Bryant had called him and requested a time trade for April 4, 2015. Lt. Millwater told me that he had originally agreed to work the fourth for Lt. Bryant but had to cancel due to completing another time trade with Lt. Morey. Lt. Millwater owed Lt. Morey a shift on April 3, 2015. Due to Division policies prohibiting working more than 48 hours in a row, he could not work on April 4, 2015 for Lt. Bryant.

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

Deputy Chief Howard Bailey:

I conducted a sworn interview with Chief Bailey at Fire Administration on May 5, 2015.

I conducted this interview with Chief Bailey to determine whether he was aware of [REDACTED] that may intermittently prevent Lt. Bryant from working. Chief Bailey told me that when he first discussed the situation with DC Martin, he did not remember Lt. Bryant telling him of [REDACTED] that may prevent him from working. The Chief told me "I told Martin that I had no clue what he was talking about." This was part of the reason that Chief Bailey recommended this incident for an internal investigation due to his belief that Lt. Bryant had given DC Martin false information regarding the reason

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for his sick leave usage. However, Lt. Bryant contacted Chief Bailey after I provided him notice of investigation on April 28, 2015 to ask why this situation had been elevated to the point of an internal investigation. Following this conversation, Chief Bailey remembered Lt. Bryant telling him of [REDACTED] that may periodically prevent him from working. Chief Bailey did not specifically state what the [REDACTED] was but agreed that Lt. Bryant had notified him approximately two years ago of the [REDACTED]. Chief Bailey told me that due to the time lapse, he did not remember the conversation with Lt. Bryant.

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

Lieutenant John Bryant:

I conducted a sworn interview with Lt. Bryant at Fire Administration on May 7, 2015 while he was on duty. He was accompanied by his Union Representative, Battalion Chief Michael Inglett. Prior to the interview, Lt. Bryant was allowed to review all interview transcripts and documentation pertinent to this investigation.

Lt. Bryant explained that he has [REDACTED] Lt. Bryant is normally fully capable of fulfilling his role as a Lieutenant/ Paramedic but when [REDACTED]

[REDACTED] Bryant stated that he has explained his situation to Chief Bailey several times and has even told him "I don't want to cause the county any type of situation where I'm going to be out for long periods of time by using FMLA (Family medical Leave Act)."

Lt. Bryant explained that he may need to call in sick to work but tries to find another Lieutenant to trade shifts with when he is able. Lt. Bryant told me that this is what he was attempting to do in this incident.

[REDACTED] He had contacted Lt. Millwater who had tentatively agreed to a time trade on that date. Lt. Millwater had to back out of the time trade and Lt. Bryant contacted several other Lieutenants to attempt to find another trade. His attempts were unsuccessful so he decided that he needed to call in sick for his shift on April 4, 2015. After speaking with DC Martin, DC Martin later sent a text message asking Lt. Bryant to contact him. Lt. Bryant advised that when he replied "Yes sir," this was meant to be the contact that DC Martin had requested. At the time, Lt. Bryant stated that he didn't infer that DC Martin wanted a phone call.

Lt. Bryant verified that he was at a house in New Smyrna Beach with several Fire Services Personnel on April 3, 2015 when he called DC Martin. [REDACTED]

[REDACTED] He told me "I wasn't at the beach partying. I was sitting on the back porch with them." [REDACTED]

Lt. Bryant told me that on April 4, 2015, he stayed at his girlfriend's residence all day while she took care of him. His girlfriend brought him back to his apartment in Deland and they stopped to get dinner at Halftime's on the way there. Lt. Bryant told me that he was not aware of the Pub Crawl but he did see BC Kamine and several other firefighters while he was out to eat. Lt. Bryant told me "Again, since I wasn't doing anything wrong, I didn't try to hide that I was there."

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I asked Lt. Bryant if he believed that he violated any of the listed policies. His responses were as follows:

- No *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.*
- No *Volusia County Merit Rules and Regulations Sec. 86-453. Reasons for disciplinary action (12) Knowingly giving false statements to supervisors, other officials or the public.*
- No *Volusia County Merit Rules and Regulations Sec. 86-516. Sick leave (a) Philosophy. Personal sick leave/family sick leave benefits shall not be considered as a right or a privilege to be used at an employee's discretion. Personal/family sick leave benefits are an allowance granted by the county to provide employees reasonable time off during periods of personal or family illness or injury without loss of pay. Accumulation of personal/family sick leave benefits should be viewed as an insurance policy and should not be considered as money in the bank to which the employee has an acquired right.*
- No *Volusia County Fire Services Standard Operating Guidelines 100.012 Members are required to speak the truth at all times whether under oath or not, in giving testimony, in connection with any official order received or otherwise in connection with their duties on behalf of the Division.*
- No *Volusia County 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.*

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

Conclusion:

Based upon Lt. Bryant's search for a time trade and his presence at the beach the day he called in sick. DC Martin was suspicious of Lt. Bryant's request for sick leave usage on April 4, 2015. This suspicion was enhanced when Lt. Bryant did not contact DC Martin to clarify the situation on April 3, 2015 as requested. After notifying Deputy Chief Bailey of the situation and learning that he (Bailey) was not aware of a [REDACTED] that may cause Lt. Bryant to miss work occasionally, DC Martin believed that Lt. Bryant had provided untruthful information to him when he (Bryant) called to schedule his leave. After learning that BC Kamine had seen Lt. Bryant at the Deland Firefighter's Pub Crawl, DC Martin requested further investigation into this situation through his chain of command.

After I was directed to conduct this investigation, I conducted a series of interviews with pertinent witnesses. During the interview with DC Bailey, he informed me that after I had notified Lt. Bryant of this investigation on April 28, 2015, Lt. Bryant had contacted him by phone. During the conversation, DC Bailey remembered that Lt. Bryant had informed him approximately two years ago that he had [REDACTED]. He had further informed DC Bailey that this [REDACTED] cause him to miss work occasionally. DC Bailey admitted that when he had learned of the sick leave issue from DC Martin, he did not recall Lt. Bryant's [REDACTED] and also recommended further

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investigation into the incident. Based upon this information, Lt. Bryant had given DC Martin truthful information when he [REDACTED] as the reason for the sick call.

During the interview with Lt. Bryant, he provided me with documentation of his [REDACTED]. He told me that he had been looking for a time trade knowing that his [REDACTED] based on his experience [REDACTED]. He confirmed that he was at a friend's beach house on the day he called in sick. He advised that [REDACTED]

Lt. Bryant added that on April 4, 2015, he had stayed at his girlfriend's residence all day. While she was bringing him to his home in Deland, they stopped to eat dinner in downtown Deland. Lt. Bryant stated that he was not aware of the Pub Crawl and did see several other employees, including BC Kamine, while he was in the area.

Based upon the information gathered during this investigation, there is no evidence to suggest that Lt. Bryant misused unscheduled sick leave or provided false information to a superior. During the interview with Lt. Bryant, I suggested that he contact the Personnel Division regarding FMLA to avoid situations like this in the future.

Findings:

Based upon testimony and documentation, I recommend that the following allegations against Lt. John Bryant are **unfounded**:

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 (12) Knowingly giving false statements to supervisors, other officials or the public.

Volusia County Merit Rules and Regulations Sec. 86-516. Sick leave (a) Philosophy. Personal sick leave/family sick leave benefits shall not be considered as a right or a privilege to be used at an employee's discretion. Personal/family sick leave benefits are an allowance granted by the county to provide employees reasonable time off during periods of personal or family illness or injury without loss of pay. Accumulation of personal/family sick leave benefits should be viewed as an insurance policy and should not be considered as money in the bank to which the employee has an acquired right.

Volusia County Fire Services Standard Operating Guidelines 100.012 Members are required to speak the truth at all times whether under oath or not, in giving testimony, in connection with any official order received or otherwise in connection with their duties on behalf of the Division.

Volusia County 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.

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