

Volusia County FLORIDA

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: October 11, 2017

SUBJECT: IA 2017-07, Sergeant Kelly Kisner, Volusia County Division of Corrections

References:

1. Request for internal affairs investigation authored by Dir. Flowers (Dated June 22, 2017).
2. Notice of Internal Investigation (Dated August 4, 2017).
3. Lieutenant Andre Isaac witness interview transcript (Dated June 22, 2017).
4. Lieutenant Miguel Aviles witness interview transcript (Dated June 22, 2017).
5. Captain Thomas Sophie witness interview transcript (Dated June 22, 2017).
6. Officer Hollie Grieff witness interview transcript (Dated June 28, 2017).
7. Officer Matthew Johnson witness interview transcript (Dated June 28, 2017).
8. Senior Corrections Officer Jacob Elder witness interview transcript (Dated June 28, 2017).
9. Sergeant Kevin Kisner witness interview transcript (Dated July 21, 2017).
10. Sergeant Kelly Kisner subject interview transcript (Dated August 10, 2017).
11. Progress notes from Florida Podiatry

Complaint:

Sgt. Kelly Kisner was scheduled to work an overtime shift on Sunday, June 4, 2017. Her assignment was the booking supervisor and she was scheduled to work 0545-1800. At approximately 0011 hours on June 4, 2017, Sgt. Kisner contacted the on duty shift commander, Lt. Isaac. Sgt. Kisner advised Lt. Isaac that she was not going to be able to make it in for her shift later that morning and to "put me out A3." A3 is a code for calling in sick. Sgt. Kisner also told Lt. Isaac that she was on her way to the hospital.

When Lt. Isaac arrived for his scheduled shift at 1745 hours on June 4, 2017, he was advised by Lt. Aviles "that the whole jail is talking about how Sgt. Kisner called out, but had pictures of her drinking the same night on facebook." Lt. Isaac confirmed this information later that shift after reviewing his personal facebook account.

On June 5, 2017, Capt. Sophie was informed of the aforementioned information by Lt. Mason. Lt. Mason also provided facebook screenshots and comments to Capt. Sophie. Capt. Sophie reported the allegations to Dir. Flowers.

On June 5, 2017, Dir. Flowers contacted me and advised of the allegations. He requested that I retrieve any pictures or information that I could from facebook or other social media platforms. Inv. Raulerson was able to locate several pictures from Sgt. Kisner's facebook page and also retrieved pictures from Mandie Huff's page. Mandie Huff is an Armor Medical Contractor who works at VCDC. The pictures depict several VCDC staff members at Rose Villa Southern Table and Bar. The pictures were posted to facebook at 2204 hours on June 3, 2017 and 0230 hours on June 4, 2017. The other officers identified in the images were Sgt. Kevin Kisner, Sro. Jacob Elder, Sro. Dennis Petko, Ofc. Hollie Grieff, and Ofc. Matt Johnson. Of the other officers present in the pictures, Sro. Elder, Ofc. Johnson, and Ofc. Grieff worked night shifts on Sunday June 4, 2017.

Capt. Sophie requested medical documentation from Sgt. Kisner regarding her absence. Sgt. Kisner provided documentation from the [REDACTED] indicating that she arrived with severe [REDACTED]. The slip had an estimated disability of one day and she was clear to return to work without restrictions. Sgt. Kisner's receipt indicated her visit was on June 4, 2017 at 1134 hours.

Due to the time lapse between when Sgt. Kisner notified Lt. Isaac that she was going to the hospital and her documented treatment times, Dir. Flowers requested an internal investigation into whether Sgt. Kisner provided false or misleading information to Lt. Isaac.

Lieutenant Andre Isaac:

I conducted a sworn interview with Lt. Isaac at the Branch Jail on June 22, 2017. Lt. Isaac described the incident as he had in his original report. He was assigned as the shift commander during the night shift beginning on June 3, 2017. He received a phone call from Sgt. Kelly Kisner shortly after midnight. Sgt. Kisner told him that she would not be able to work her shift beginning later that morning and to put her down as "A3." Lt. Isaac told me that "A3" is code for a sick callout. Lt. Isaac asked Sgt. Kisner if everything was alright and she responded that it wasn't and she was on her way to a hospital. Sgt. Kisner did not provide any additional details of her callout and Lt. Isaac did not request any further information.

Following his shift, Lt. Isaac went home and went to sleep. After waking up later in the afternoon, Lt. Isaac told me that he had observed pictures on facebook showing Sgt. Kisner and other staff members out "partying" the night before. He did not think much of this until he arrived to work later that night and met with Lt. Aviles for debriefing. During the debriefing, Lt. Aviles inquired about Sgt. Kisner's callout and advised Lt. Isaac that several employees had mentioned it to him during the day shift.

Lt. Isaac told me that during the night shift on June 4, 2017, he spoke informally with Sro. Elder. Sro. Elder told Lt. Isaac that he was with Sgt. Kisner the previous night. Sro. Elder advised him that the Kisner's left the gathering prior to him and did not mention any injury.

This interview was downloaded to disk and add to the case file as item 3.

Lieutenant Miguel Aviles:

I conducted a sworn interview with Lt. Aviles at the Branch Jail on June 22, 2017. Lt. Aviles was the daytime shift commander on June 4, 2017. Lt. Aviles told me that Sgt. Kisner was scheduled to work as the booking supervisor that day but had called in sick to Lt. Isaac. Lt. Aviles told me that at least two officers that day had approached him and advised that Sgt. Kisner was out partying last night and called in sick today. They had told him there were pictures on facebook. Lt. Aviles could not recall which officers had told him of the facebook postings.

When Lt. Isaac returned for the June 4, 2017 night shift, Lt. Aviles discussed the facebook posts with him. After his shift, Lt. Aviles contacted Capt. Sophie to advise him of the situation. Capt. Sophie advised that he would handle the situation from there. Lt. Aviles had no further involvement in this incident.

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

Captain Thomas Sophie:

I conducted a sworn interview with Capt. Sophie at the Branch Jail on June 22, 2017.

Capt. Sophie told me that he became aware of Sgt. Kisner's callout on Monday June 5, 2017. He was advised by the involved Lieutenants that there had been facebook pictures of Sgt. Kisner taken at bars and restaurants posted on the night before her scheduled shift. After notifying his chain of command, Capt. Sophie requested medical documentation from Sgt. Kisner to document her absence. The initial documentation from the doctor's office did not indicate a date or time so Capt. Sophie requested that information. Sgt. Kisner provided a receipt indicating that she was seen at the [REDACTED] at 1134 hours on June 4, 2017. While Capt. Sophie's report indicates that the time stamp on the receipt is inconsistent with what Sgt. Kisner told Lt. Isaac, Capt. Sophie did not discuss this discrepancy with Sgt. Kisner.

Capt. Sophie indicate the shift that Sgt. Kisner was supposed to work on June 4, 2017 was not a mandated shift but an overtime shift that Sgt. Kisner had volunteered for. Capt. Sophie added that Sgt. Kisner does not have a history of using excessive unscheduled leave.

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

Officer Hollie Grieff:

I conducted a sworn interview with Ofc. Grieff at the Correctional Facility on June 28, 2017.

Ofc. Grieff works for Sgt. Kelly Kisner on the night shift at VCCF. Ofc. Grieff confirmed that she and several other staff members had socialized with Sgt. Kelly Kisner and Sgt. Kevin Kisner on the evening of June 3, 2017. She told me that they had visited several restaurants and bars on Granada Boulevard that evening. She was with Ofc. Johnson and was the designated driver. She told me that she did not consume any alcohol that evening. Ofc. Grieff told me that after visiting several establishments on Granada, the group decided they were going to the Ocean Deck in Daytona Beach. She drove Ofc. Johnson and the Kisners from their location on Granada toward Daytona Beach to meet the rest of the group. Once they

neared the Ocean Deck, Sgt. Kelly Kisner told Ofc. Grieff that "I don't really feel like going in and, you know, it's getting late so we should just turn back." Ofc. Grieff agreed and returned the Kisners to their vehicle still parked on Granada Blvd. Ofc. Grieff told me that she and Ofc. Johnson returned home from this stop. The last time she saw Sgt. Kelly Kisner that evening was near 2330 hours. Ofc. Grieff told me that she did not notice any injuries to Sgt. Kisner and did not recall Sgt. Kisner mentioning that she was sick or injured in any way.

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

Officer Matthew Johnson:

I conducted a sworn interview with Ofc. Johnson at the Branch Jail on June 28, 2017.

Ofc. Johnson recalled the night's events consistent with Ofc. Grieff's description. Sgt. Kisner did not make indication to Ofc. Johnson that she was sick or injured on June 3, 2017.

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

Senior Officer Jacob Elder:

I conducted a sworn interview with Sro. Elder at the Branch Jail on June 28, 2017.

Sro. Elder confirmed that he was with the Kisners and several other staff members on the evening of June 3, 2017. He was also with his girlfriend, Mandie Huff, who is an Armor Medical Employee. After visiting several establishments on Granaday Blvd., he went to the Ocean Deck with several other people in the group. Shortly after arriving at the Ocean Deck, he received a text message from Ofc. Grieff or Johnson saying that they, and the Kisners, would not be going to the Ocean Deck. Sro. Elder could not recall the time that he last saw Sgt. Kisner that night and did not remember her saying that she was sick or injured. Sro. Elder did recall Sgt. Kelly Kisner having a few drinks but did not describe her as intoxicated.

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

Sergeant Kevin Kisner:

I conducted a sworn interview with Sgt. Kevin Kisner at the Branch Jail on July 21, 2017. Sgt. Kevin Kisner is married to Sgt. Kelly Kisner. They work opposite shifts, he works days and she works nights.

Sgt. Kevin Kisner confirmed that he and his wife went out with the other officers on June 3, 2017 to several establishments on Granada Blvd.. He confirmed that he and his wife were on their way to the Ocean Deck with Officers Grieff and Johnson and decided to go home prior to arrival. Sgt. Kevin Kisner told me that he was intoxicated and could not provide specific times relating to that evening. He told me that once Ofc. Grieff dropped he and his wife off at their vehicle in Ormond Beach, he got into the back seat and fell asleep while his wife drove them home. He did not recall his wife having a conversation with Lt. Isaac. When asked if his wife had any injuries or complained of being ill, Sgt. Kevin Kisner told me that his wife has "ongoing issues with one [REDACTED]". He told me that she has had to have [REDACTED] and had seen physicians in the past regarding this issue. He could not recall if she was having this recurring issue that evening. He told me that she visited a doctor's office the next day regarding her [REDACTED].

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

Sergeant Kelly Kisner:

I conducted a sworn interview with Sgt. Kelly Kisner at the Branch Jail on August 10, 2017. Prior to the interview, Sgt. Kisner was provided all documentation and interviews relating to this case. She was not represented during this interview and she acknowledged that this was her choice. Also present for the interview was Investigator Raulerson.

Sgt. Kisner acknowledged that she met several subordinates for dinner and drinks on June 3, 2017. Sgt. Kisner advised that she stopped drinking early in the night knowing that she had to drive her and her husband home and had to work the next morning. Sgt. Kisner told me that her [REDACTED] had been bothering her all night due to a [REDACTED] she had received two days prior. She advised that her [REDACTED] has been giving her problems for several months and that she has received medical treatment for the pain. She added that she does not complain about the pain because it is an ongoing issue. She told me that the pain in her [REDACTED] was progressively getting worse. While driving her husband home she called Lt. Isaac that she would not be able to work the next morning because she was not feeling well. She did advise Lt. Isaac that she was going to an emergency room because she thought she needed to at the time. Sgt. Kisner advised that her husband became sick in the vehicle. Once she got him home and inside the house, she decided to seek medical attention later in the morning. She told me that she went to the [REDACTED] later that morning with her husband.

Sgt. Kisner told me that she has [REDACTED] She provided documentation from [REDACTED] dated June 1, 2017, March 23, 2017, and February 22, 2017 indicating a diagnosis of [REDACTED] Sgt. Kisner told me that she did not convey any of this information to Capt. Sophie when he requested documentation for the callout.

Sgt. Kisner told me that she made some poor decisions regarding this incident. She told me:

I know I made poor decisions by allowing Mandy to post my pictures and calling out that was a poor decision on my part, but I just couldn't. My [REDACTED] was hurting so bad and I even complained about it to Sergeant Smith on that Thursday night that I worked, but I kept working. And I'm not the type of person to call out. I'm not the type of person that just free willy nilly wants to not show up to work. And I don't lie about anything. I own my mistakes. I own them.

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

Conclusion:

Sgt. Kisner confirmed that she had been out to several drinking establishments on the night of June 3, 2017 and that she had volunteered to work an overtime shift the next morning. She confirmed that she did call Lt. Isaac and tell him that she was going to an emergency room while notifying him that she could not work due to illness. Sgt. Kisner told me that she did not go to the emergency room that night because she needed to get her husband home and went to the clinic later that morning. She recognized that she made poor decisions that evening but advised that she wasn't able to work on June 4, 2017 due to a chronic condition. Sgt. Kisner provided documentation that she had been previously treated for this condition and it was added to the case file as item 11. ← ?

Findings:

This case was presented to Director Sanders, Deputy Directors Bythwood and Swanson, and Director Flowers on October 6, 2017. Director Sanders determined the following allegations are **sustained**:

VC 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.

VCDC Policy 102.09(RR). *Division of Corrections personnel 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 county government, public officials, fellow employees, and themselves.*

Director Sanders determined the following allegations are **not sustained**:

VCDC Policy 102.02 (C). Reporting Unscheduled Absences

Employees reporting that they will be absent due to illness, injury, or any other unforeseen reason, shall notify their supervisor or applicable staffing supervisor at least two (2) hours prior to the employee's scheduled reporting time.

- 1. Illness related: Employees shall not feign illness or injury. If an employee is too ill or incapacitated to telephone, he/she shall have a reliable person to call on their behalf. Whoever calls, must report a contact telephone number where the employee can be reached. This notification shall occur each time the employee cannot report for work as scheduled (any unscheduled absence). The daily reporting requirement may be waived by the employee's supervisor, if the employee advises the supervisor of the estimated length of absence due to an extended illness or injury recovery period.*

VCDC Policy 102.09(C). *All staff shall make or cause to be made accurate, complete and truthful reports and official records.*

- 1. No staff member shall knowingly make or cause to be made any false report or falsify any official record.*
- 2. No staff member shall make or cause to be made any inaccurate, misleading, contradictory, or improper report/official record.*

VC 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.*

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


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 10/11/17
Date



Approved 10/11/17
Director Terry Sanders Date




Volusia County
FLORIDA

Department of Public Protection

Note to file:

November 20, 2017

File closed, no adverse action to be taken. Division Director Mark Flowers met with Sgt. Kelly Kisner regarding the perception of her actions on June 4, 2017, the internal investigation is considered closed.



Terry A. Sanders,
Department Director