



# 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 12, 2016

SUBJECT: IA 2016-01, Officer Edgar Rodriguez, Volusia County Division of Corrections

#### References:

1. Notice of Internal Investigation (Dated February 22, 2016).
2. Volusia County Sheriff's Office Incident Report Case Number VP160002309 (Dated January 28, 2016).
3. \_\_\_\_\_ sworn written statement (Dated January 28, 2016).
4. Arrest notification from FDLE (Dated January 28, 2016).
5. Court Documents
6. Edgar Rodriguez Subject interview transcript (Dated September 9, 2016).

#### Background:

Corrections Officer Edgar Rodriguez was arrested by the Volusia County Sheriff's Office on Thursday, January 28, 2016. Ofc. Rodriguez was charge with Domestic Violence- Battery (FSS 784.03(1)(A)1). The Division of Corrections was notified of the arrest prior to Ofc. Rodriguez arriving at the jail following the arrest. On January 29, 2016, I obtained copies of all reports pertaining to Ofc. Rodriguez' arrest.

#### Complaint:

On Thursday, January 28, 2016 at approximately 1438 hours, VCSO Deputy Lococco was dispatched to a disturbance at Ofc. Rodriguez' residence in Deltona. Prior to his arrival at the residence, Dep. Lococo contacted \_\_\_\_\_, Ofc. Rodriguez' spouse, at the Bank of America in Deltona.

Mrs. \_\_\_\_\_ advised Dep. Lococo that she and her husband had been involved in a verbal altercation at their residence. She advised that Ofc. Rodriguez was "verbally aggressive by yelling." During the altercation, Mrs. \_\_\_\_\_ began to take her wedding band off of her finger and Ofc. Rodriguez twisted her finger to prevent her from removing the ring. Ofc. Rodriguez released Mrs. \_\_\_\_\_ after she yelled to release her. Mrs. \_\_\_\_\_ advised that she then went into the shower to get ready for work when Ofc. Rodriguez entered and grabbed her wrists. Mrs. \_\_\_\_\_ attempted to break free and Ofc. Rodriguez responded that she was not going anywhere. Ofc. Rodriguez released Mrs. \_\_\_\_\_ when she yelled at him to let her go. Ml \_\_\_\_\_ told Dep. Lococo that she then attempted to contact law enforcement when Ofc. Rodriguez "snatched her cellphone out of her hand and threw it on the ground and pinned her

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against the wall.” Mrs. [redacted] advised that she attempted to get up multiple times and was scratched by Ofc. Rodriguez on her face and chest. Mrs. [redacted] advised that she had kicked a hole in the wall of the residence during the physical altercation and was eventually able to leave the residence.

Dep. Lococo contacted Ofc. Rodriguez at his residence. During the course of the Deputy’s investigation, Ofc. Rodriguez admitted that he had pushed Mrs. [redacted] in an attempt to keep her from leaving. Ofc. Rodriguez denied scratching Mrs. [redacted]. He further denied pushing Mrs. [redacted] to the ground as reported.

Dep. Lococo’s report states that Mrs. [redacted] had a small laceration to her chest, bruising on her left ring finger, and scratches on her right forearm. Ofc. Rodriguez had a scratch on his chest and scratches on his forearms.

Based upon his investigation, Dep. Lococo determined that Ofc. Rodriguez was the primary aggressor during the altercation and placed him under arrest for battery (Domestic Violence). Dep. Lococo’s report also indicates that Ofc. Rodriguez and his wife have two children but they were not present during the altercation. Mrs. [redacted] wrote a sworn written statement that is consistent with Dep. Lococo’s report.

Ofc. Rodriguez was booked at the Branch Jail with no bond allowed due to the domestic violence charge. He was released on his own recognizance and ordered to pre-trial services on January 29, 2016. Although the first appearance Judge ordered Ofc. Rodriguez was not to possess firearms or weapon except for employment purposes, Corrections administration placed Ofc. Rodriguez in a position that would not have inmate contact.

Following Ofc. Rodriguez arrest, I made several unsuccessful attempts to schedule an interview with Mrs. [redacted].

I served Ofc. Rodriguez notice of internal investigation on February 22, 2016. He was advised that the investigation would be tolled until the completion of his criminal prosecution.

According to court records, Ofc. Rodriguez accepted a Deferred Prosecution Agreement and his criminal case was nolle prossed on July 15, 2015. I made several more unsuccessful attempts to contact Mrs. [redacted] to arrange an interview. Warden Reinhart served Ofc. Rodriguez his interview notice on September 1, 2016. All reports and court documents relating to this case were also provided to Ofc. Rodriguez at this time.

**Ofc. Edgar Rodriguez:**

I conducted a sworn and recorded interview with Ofc. Rodriguez on September 9, 2016 at the Volusia County Branch Jail. Ofc. Rodriguez was not accompanied by a representative and he advised this was by his own choice. Ofc. Rodriguez confirmed that he had reviewed the provided documentation and was ready to proceed with the interview.

Ofc. Rodriguez advised that at the time of his arrest on January 28, 2016, he and [redacted] had been married for three months. He added that they had been married previously from 2003 through 2012 and had two minor children together. Following their divorce in 2012, they reconciled their relationship and moved to Deltona. Ofc. Rodriguez told me that there was a history of domestic violence in their relationship. He advised that he had never been accused of battering her but she had been violent with him several times in the past. In 2008, [redacted] was arrested for Domestic Battery while they lived in [redacted].

Connecticut. Ofc. Rodriguez advised me that he did not want to pursue charges with the district attorney and she agreed to the equivalent of a deferred prosecution agreement.

Ofc. Rodriguez told me that the morning of January 28, 2016 he had taken his wife to Orlando for breakfast. During breakfast, [redacted] became jealous because she believed he was looking at an attractive waitress. After questioning why Ofc. Rodriguez is looking at the waitress; an argument ensues inside the restaurant. He advised that jealousy is a common source of contention between he and [redacted]. After eating, they return to their home in Deltona where the argument continues. Ofc. Rodriguez told me that he was following [redacted] into the master bedroom when she slams the door in his face. Ofc. Rodriguez advised that he opened the door and they continued to argue. He told me that "she's going off on me." Ofc. Rodriguez told me that he became upset when [redacted] kicked a hole in the bedroom wall. They continue to argue as [redacted] enters the bathroom while Ofc. Rodriguez follows [redacted] eventually tells Ofc. Rodriguez that if he wants a divorce, "I don't care," and throws her wedding ring at him. The argument continued into the bedroom where Ofc. Rodriguez told me that he was "pinned between her and the bed." [redacted] slapped him in the face and then attempted to punch him. Ofc. Rodriguez told me that he dodged the punch. As they continue to argue, [redacted] scratches Ofc. Rodriguez' chest. Following the scratching, Ofc. Rodriguez told me that their children's school called to advise that they hadn't been picked up from school. He told me "So, I kind of like just guided her as soon as I got the chance to get out of there." When asked to clarify the previous statement, Ofc. Rodriguez confirmed that he had pushed his wife to create distance to exit the bedroom.

Ofc. Rodriguez told me that he left the residence to go pick his children up from their elementary school. Shortly after he returned to the house, the Sheriff's Office arrived. Ofc. Rodriguez told me that he explained the incident to the deputies as he told me. He was then arrested for Domestic Battery.

When asked about specific allegation made by Mrs. [redacted] in her statement, Ofc. Rodriguez told me that he did not attempt to pull her wedding band off of her finger, did not take her phone to prevent her from contacting law enforcement, did not pin her down on the floor, and did not threaten to kill her at any time. Ofc. Rodriguez did tell me that she had threatened to contact law enforcement during the argument. He told her that she would go to jail because he was the one with scratches on his neck, not her.

Ofc. Rodriguez told me that the criminal prosecution was prolonged due to his and [redacted]'s divorce going on at the same time. He advised that he and his attorney agreed to the deferred prosecution agreement in July. The agreement required Ofc. Rodriguez to attend an eight hour management class and then the charge would be dismissed. Ofc. Rodriguez told me that he completed the class shortly after receiving the agreement and the charges had been dismissed. He provided documentation confirming that the charge had been dismissed and that no plea was ever entered.

When asked if he believed that he violated any of the policies alleged on his notice of internal investigation, Ofc. Rodriguez replied that he had violated *Volusia County merit Rules and Regulations Sec. 86-453 (13) Any conduct, on or off duty that reflects unfavorably on the county as an employer.* He explained "...instead of arguing and I guess fueling the fire, I should have just walked away, so I would say yes on that one." Regarding the other policies listed, Ofc. Rodriguez did not believe that he violated those policies.

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

**Conclusion:**

As a result of his actions on January 28, 2016, Ofc. Rodriguez was arrested for Domestic Violence Battery [FSS 784. 03(1)(A)1]. This charge was dismissed after Ofc. Rodriguez completed the terms of the Deferred Prosecution Agreement he entered into on July 15, 2016.

By his own admission, during his sworn interview, Ofc. Rodriguez committed the offense of Domestic Violence Battery against his wife and mother of his two children. Even though the admitted battery is not consistent with the statement Mr. \_\_\_\_\_ provided to VCSO, the crime did occur according to Ofc. Rodriguez' statement.

**Findings:**

Based upon testimony provided by Ofc. Rodriguez and the VCSO investigation regarding this incident, I recommend that the following allegations are **sustained:**

*VCDC Policy 102.09.* Correctional Officers shall conduct themselves in a professional manner at all times and remain cognizant of his/her responsibilities to the Division and the inmates in his/her charge.

*VCDC Policy 102.09(TT).* Employees shall refrain from any activity either on/off duty that would not be of good moral character. Examples of this are, but not limited to, any act constituting a criminal act, any principal, accessory, attempt, solicitation, or conspiracy of committing any criminal act.

*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.

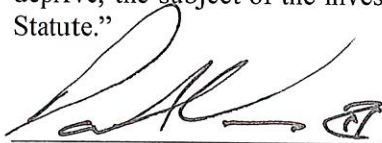
(13) Any conduct, on or off duty, that reflects unfavorably on the county as an employer.

*Florida Administrative Code 11b-27.0011(4)(b)* Except as otherwise provided in Section 943.13(4), F.S., a plea of guilty or a verdict of guilty after a criminal trial for any of the following misdemeanor or criminal offenses, notwithstanding any suspension of sentence or withholding of adjudication, **or the perpetration by an officer of an act that would constitute any of the following misdemeanor or criminal offenses whether criminally prosecuted or not: (FSS 784.03)**

**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

12/12/16  
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:** Corrections Officer Edgar Rodriguez  
Division of Corrections-Branch Jail

**DATE:** January 23, 2017

**FROM:** Terry Sanders, Director  
Department of Public Protection

**FILE NO:** DPP17-009

**SUBJECT:** Notice of Suspension Without Pay

**REFERENCE:** DPP16-116 NOIS  
Domestic Violence Battery

**Purpose:** The purpose of this memorandum is to provide you with notice of your suspension without pay for two (2) 12.25-hour shifts. This action is the result of your violation of Division and County Policies, as well as State Statute. The dates of your suspension without pay will be Tuesday, February 7, 2017, and Friday, February 10, 2017. You will return to work on Saturday, February 11, 2017.

You received the notice of intent to suspend without pay on Friday, December 16, 2016. You contacted my office and requested to meet. On Tuesday, January 3, 2017, you and I met along with Deputy Directors Patricia Bythwood and Mark Swanson and Acting Division Director Mark Flowers. You elected not to bring a representative with you.

In our meeting you took responsibility and apologized for your actions. I felt you were sincere in your actions in our meeting and understand the severity of what you had done. Therefore, I have reduced your suspension without pay from three (3) 12.25-hour shifts, to two (2) 12.25-hour shifts. Your suspension is to be served as noted above, and you are advised that there shall be no voluntary overtime allowed in this pay period to make up the time.

**Background:** On January 28, 2016, you became involved in a verbal altercation with your spouse, which resulted in you being arrested for Domestic Violence Battery.

**Information:** On Thursday, January 28, 2016, at approximately 1438 hours, the Volusia County Sheriff's Office responded to a Domestic Violence call at your residence. After completing an investigation, you were arrested for Domestic Violence Battery (FSS 784.03(1)(A)). The charges were dismissed after you completed the terms of the Deferred Prosecution Agreement, which you entered into on July 15, 2016.

An Internal Affairs investigation was conducted and substantiated the following allegations:

**VCDC Policy 102.09:** Correctional Officers shall conduct themselves in a professional manner at all times and remain cognizant of his/her responsibilities to the Division and the inmates in his/her charge.

**VCDC Policy 102.09 (TT):** Employees shall refrain from any activity either on/off duty that would not be of good moral character. Examples of this are, but not limited to, any act constituting a criminal act, any principal, accessory, attempt, solicitation, or conspiracy of committing any criminal act.

**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.

(Continued)

(13) Any conduct, on or off duty, that reflects unfavorably on the county as an employer.

**Florida Administrative Code 11b-27.0011(4)(b):** Except as otherwise provided in Section 943.13(4), F.S., a plea of guilty or a verdict of guilty after a criminal trial for any of the following misdemeanor or criminal offenses, notwithstanding any suspension of sentence or withholding of adjudication, **or the perpetration by an officer of an act that would constitute any of the following misdemeanor or criminal offenses whether criminally prosecuted or not: (FSS 784.03).**

**Conclusion:** You have been employed with the County as a Corrections Officer for over 2 years. You have no prior corrective or disciplinary incidents on your record. To your credit, when contacted by the Internal Affairs Investigator regarding this matter, you cooperated and admitted to your involvement. Nonetheless, you should be aware of the policies and the law and yet violated the policies previously mentioned. Given the serious nature of this misconduct, and with the recommendations of your supervisors, I am issuing this letter of suspension without pay for two (2) 12.25-hour shifts. The date of your suspension without pay will be **Tuesday, February 7, 2017, and Friday, February 10, 2017.** You will return to work on **Saturday, February 11, 2017.** You are advised that there shall be no voluntary overtime allowed in this pay period to make up the time.

Please be advised that further violations of Division and/or County policy as well as State law may result in more severe discipline up to, and including dismissal. We encourage you to seek assistance through the county's employee assistance program (EAP).

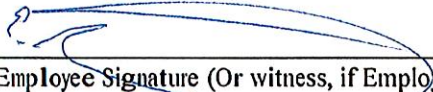
**Action:** In accordance with section 86-485 (d) (2) of the Merit System Rules and Regulations, you have ten (10) working days from receipt of this notification (or effective date of the suspension) to appeal this action through the Volusia County Merit System Rules and Regulations. You must submit your written request for appeal to the County Human Resources Office, 230 N. Woodland Blvd. Suite 262, DeLand, FL 32720. Please see Section 86-485 of the Volusia County Merit System Rules and Regulations that outlines the appeal procedures.

If you do not file your appeal by the time stated herein, it will be assumed that you have waived this right.

TS/tb

*Pursuant to Merit Rule 86-455, the 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)      1/23/2017  
\_\_\_\_\_  
(Date of Signature)

- cc:     Patricia Bythwood, Deputy Director Public Protection  
       Mark Swanson, Deputy Director Public Protection  
       Mark Flowers, Interim Corrections Director  
       Michael Moore, Assistant County Attorney  
       Tom Motes, Human Resources Director  
       Joe Pozzo, Assistant Human Resources Director  
       Tammy King, EEO Coordinator