



VOLUSIA SHERIFF'S OFFICE

MICHAEL J. CHITWOOD, SHERIFF

Office of Chief Deputy Brian M. Henderson - Internal Affairs

REPORT OF INVESTIGATION

REPORT NUMBER: IA 23-004

PERIOD COVERED: March 02, 2023
DATE REPORTED: March 02, 2023
SUBJECT(S) NAME: Deputy Megan Potosky, #8990
INVESTIGATING OFFICER: Sergeant Ben Gordon, #7744

BASIS FOR INVESTIGATION:

On March 03, 2023, Sergeant Gordon was notified in reference to a complaint involving Deputy Potosky. The complaint was submitted via email, and the complainant, Marie Post, identified herself as a property manager for Bell Partners. According to Marie, the complaint stemmed from an incident that occurred on March 02, 2023, at the Bell Timacuan Apartments located at 715 Camarague Place, Lake Mary, within Seminole County. The incident was between Marie and Nicole Potosky, who is the sister of Deputy Potosky. According to Marie, there was a verbal interaction between herself and Nicole at their main office. The issue was civil in nature and did not require the assistance of any law enforcement officer. During a disagreement between Marie and Nicole, Deputy Potosky joined the argument by way of a "Facetime" phone call. In Marie's complaint, she advised Deputy Potosky argued on behalf of her sister while in full uniform and identified herself as a deputy with the Volusia Sheriff's Office. Post felt that Deputy Potosky's actions during the argument were an abuse of authority, and her behavior was unacceptable. The conversation ended when Deputy Potosky made a vague threat that Marie felt would put herself and her employees at risk of harm.

OFFENSES:

GO-026-02.IV.B.3 – Any other conduct or action, on-duty or off-duty, of such seriousness that disciplinary action is considered warranted.

GO-026-02.IV.C.5.g – Failure to Follow General Order, Standard Operating Procedure, or Order – Employees shall adhere to all official general orders, standard operational procedures, and orders, and shall faithfully execute all the duties and responsibilities of their assigned position.

GO-026-02.IV.G.2.a – General Proficiency – VSO personnel are required to possess a sound working knowledge of the policies and procedures established by general orders and standard operating procedures.

GO-026-02.IV.D.1.f.(1) – Involvement in Civil Matters – Employees shall not involve themselves in civil actions or disputes of other persons nor shall they presume to adjudicate any civil dispute or give advice in civil matters beyond referring parties to the proper agency or class of persons equipped to handle their problem.

GO-026-02.IV.D.9.x – Code of conduct – Employees of the VSO are employed to provide service to the citizenry and the public in general and are expected to conduct themselves in a manner that will reflect credit upon the VSO. Employees must avoid any action which might result in or create the impression of using public office for private gain, giving preferential treatment to any person, or losing impartiality in conducting public business.

INVESTIGATION:

On March 07, 2023, Chief Deputy Brian Henderson assigned the above incident to the Internal Affairs Unit. This report details the Internal Affairs investigation conducted by Sergeant Ben Gordon.

Sergeant Gordon obtained and reviewed the complaint completed by Marie which was in the form of an email. The complaint was sent on March 02, 2023 at 1347 hours. The following are the contents contained within said complaint.

Dear Sheriff Chitwood,

I am not sure if you are the correct person to reach out to or if there is someone else I can contact. I had a very uncomfortable and disturbing conversation today with an Officer Megan Potosky via FaceTime. I am a Property Manager at an Apartment Community in Lake Mary, FL, which is in Seminole County. I was dealing with a continued noise complaint and report of marijuana smoke coming from an apartment. My Assistant Manager had called the resident, Nicole, and was given permission to go inspect the apartment as she denied there was any smoking going on. Nicole stated that she was not home and that no one would be there. We went to the apartment and had a gentleman open the door, stating that he lived there and that we did

not have permission to enter. I explained to him that I had permission from the lease holder (Nicole) and that he was an unauthorized occupant. He again refused to let us enter. When I returned to the office, Nicole came in. She held up her phone and that is when Officer Potosky introduced herself via FaceTime as a Sheriff with Volusia County. She began berating me with a series of questions as to why I went to the apartment, what proof I had, why couldn't Nicole have a guest, etc. Officer Potosky continued in an intimidating and threatening manner, was in full uniform during the call, and clearly stated she was representing the resident. When I asked what her name was and who her Supervisor was she pretty much was refused to respond. When she finally did, it came out that she is the sister of the resident, Nicole. I feel this was a gross abuse of power and that it was clearly Officer Potosky's intention to intimidate me as an Officer of the Law. Officer Potosky presented herself as a Sheriff from Volusia County and not that of the sister of Nicole, trying to help. Her behavior was unacceptable. When Officer Potosky advised her sister to use whatever means of force necessary against me if I tried to enter the apartment again, that was too far. I look forward to your response.

Interview with Marie Post

On March 09, 2023, at approximately 1020 hours, Sergeant Gordon conducted a sworn recorded interview with Marie Post. Sergeant Gordon interviewed Marie Post at 715 Camarague Place, Lake Mary, inside the administrative office. Sergeant Gordon, Andrew Calkins, and Marie Post were present for the interview. Below is a synopsis of the audio-recorded interview:

Post began the interview by stating she is the property manager for Bell Partners and has (26) twenty-six years of experience. According to Post, the incident started due to issues that involved Nicole Potosky and her boyfriend violating lease terms. The issues escalated, which ended with Nicole being served with paperwork that stated the property management group was seeking her eviction from her current apartment. After being informed about the letter of intent, Nicole responded to the administration office located at 714 Camarague Place. Post said, "*Nicole the resident in 7200 came up to the office, came in here. Tempestt and I were sitting in here. She said ok going forward you do not have permission to go to my apartment not now not ever.*" This caused an argument to ensue. During the argument, Nicole, Post, and Tempestt Frias were all present in the office. As the argument continued, Post heard a voice coming from Nicole's phone. Post recalled, "*That was when I heard like a voice say let me talk to her. And so she [Nicole] held up her cell phone and kind of just held it for me to see, and the person introduced themselves Officer Potosky from Volusia County Sheriff's Department.*" Post explained the focus of the argument switched from Nicole to Deputy Potosky.

When Deputy Potosky began talking, Post quickly identified Deputy Potosky was dressed in a full uniform and appeared to be at work based on what she observed. The nature of the argument

then became about specific details about the lease agreement between her company and Nicole. The conversation degraded to the point it became "silly."

During the incident, Deputy Potosky made comments that made Post feel as though Deputy Potosky was representing her sister legally and was providing legal advice to Nicole during the argument. Post believed this because, during the argument, Deputy Potosky told Nicole they were going to file lawsuits against the property management company. According to Post, *"The officer [Deputy Potosky] then tried to tell me that she was a paralegal and knew the law."* These comments further made Post believe that Deputy Potosky was inappropriately using her position as a law enforcement officer as a point of leverage.

The conversation degraded further until the point Post recalled, *" she [Deputy Potosky] said we are making it very clear that you do not have permission going forward and then that if I did go over to the apartment she said Nicole you are to use whatever means of force necessary to protect yourself and stop her if she tries to enter your apartment. And then she said it again and said Nicole, you know what I mean by whatever means of force necessary".* Post continued, *"Once I felt threatened, that was when I asked what the officer's name was again. I had the screen up that you saw the plexiglass from Covid that was still up, so she [Nicole] was holding the phone on the other side, and she's [Deputy Potosky] like, oh, I think we're done, and I said no I'm sorry what is your name? And she kind of pointed to her she had the name tag on but I said I'm sitting across the desk I said can you spell it for me and that's when she said you've got it you've got it there in front of you. And I said what do you mean I have it in front of me and she said it's the same last name as Nicole that's my sister. I said, of course. And then I asked for her supervisor's name I had it written down it was a John McDaniel, McDonald, I believe."*

Based on what Deputy Potosky said, Post felt that she was encouraging Nicole to use violence against Post and her employees. It was at this point Post ended the conversation due to Deputy Potosky's conduct. According to Post, she felt Deputy Potosky was trying to intimidate her in order to gain an advantage during the argument. Post explained she felt Deputy Potosky's actions during the incident were completely unprofessional and inappropriate.

Interview with Tempestt Frias

On March 09, 2023, at approximately 1343 hours, Sergeant Gordon conducted a sworn recorded interview with Tempess Frias. Sergeant Gordon interviewed Tempess Frias at 715 Camarague Place, Lake Mary, inside the administrative office. Sergeant Gordon, Andrew Calkins, and Tempess Frias were present for the interview. Below is a synopsis of the audio-recorded interview.

Frias began by stating she is the Assistant Community Manager and was present during the altercation that started this investigation. According to Frias, she was in the office with Post

discussing the lease issues they were going through with Nicole. During the conversation, Nicole entered the building and started a conversation with Post about what recently occurred.

While Post and Nicole were speaking, Frias heard another voice, at which point Nicole put her cell phone up for them to see. Frias explained that Nicole appeared to have a law enforcement officer on "Facetime" during the lease disagreement. Frias observed a female law enforcement officer wearing a duty uniform complete with agency insignia. Frias stated she did not hear the name of the deputy; however, she heard that the deputy worked for the Volusia Sheriff's Office.

Frias' recollection of the incident was very similar to the way Post described the incident in her interview. The conversation between Post and Deputy Potosky was not productive and escalated at the end. Frias recalled Deputy Potosky telling them she was going to file harassment charges and other civil actions against them. Frias was then asked if she felt Deputy Potosky involved herself in a civil matter unnecessarily, and she said, *"absolutely."*

Frias then described the conversation as *"Difficult in every aspect that you could think of."* When speaking specifically about Deputy Potosky's behavior, Frias said, *"I just thought that was super unprofessional especially in this kind of setting."* Frias was asked if she felt Deputy Potosky was using her position as a law enforcement officer as a point of leverage during the disagreement and for personal gain. Frias said, *"Absolutely, yeah. I think if anybody else was sitting there that maybe they would have been intimidated and let her [Nicole] off the hook definitely."*

Interview with Alyssa Rothenberger

On March 09, 2023, at approximately 1343 hours, Sergeant Gordon conducted a sworn recorded interview with Alyssa Rothenberger. Sergeant Gordon interviewed Alyssa Rothenberger at 715 Camarague Place, Lake Mary, inside the administrative office. Sergeant Gordon, Andrew Calkins, and Alyssa Rothenberger were present for the interview. Below is a synopsis of the audio-recorded interview.

Rothenberger advised she was working on the date of the incident and was outside Post's office during the discussion that involved Deputy Potosky. Although outside the office, Rothenberger was able to hear some of the conversation that took place. Rothenberger's statement mirrored both what Post and Frias previously mentioned during their recorded statement.

Rothenberger heard the conversation escalate to the point Deputy Potosky spoke up from the phone Nicole was holding. Rothenberger heard Deputy Potosky say she worked for the Volusia Sheriff's Office. Rothenberger recalled the conversation as degrading to the point the whole incident was non-productive. Rothenberger explained, *"she was very loud she was very talking over trying to make sure her point was coming across and that it essentially felt like she was trying to scare Marie with her coming out and basically like using her power as ok well I'm*

higher up and I'm this and I'm that and trying to, trying to get impact and trying to scare so the situation could go away." Rothenberger was asked if she felt Deputy Potosky inserted herself into the civil dispute with the intention to of using her position as a law enforcement officer for personal gain. Rothenberger said, *"yeah absolutely."* Rothenberger also believed Deputy Potosky acted in an unprofessional manner during the incident.

Interview with Nicole Potosky

On March 10, 2023, at approximately 1600 hours, Sergeant Gordon conducted a sworn recorded interview with Nicole Potosky. Sergeant Gordon interviewed Nicole Potosky at 790 Silver Cloud Circle, Lake Mary, inside her apartment. Sergeant Gordon, Andrew Calkins, and Nicole Potosky were present for the interview. Below is a synopsis of the audio-recorded interview.

Nicole began the interview by stating she has been having ongoing issues with the property management. Because of these issues, Nicole contacted her sister, Deputy Potosky, to ask for assistance. Nicole said that she called Deputy Potosky via "FaceTime" in order to show a letter that was drafted by the property management company that was left at her apartment. While speaking with Deputy Potosky, Nicole made the decision to go to the property management office to discuss the issue in person.

When Nicole arrived at the office, she was still on the phone with Deputy Potosky; however, Nicole held the phone down by her side to hide the fact Deputy Potosky was still on the phone. Nicole started a discussion with Post and Frias in their office and noted some of her concerns. As the conversation progressed, Deputy Potosky entered the conversation by speaking up on "FaceTime". The discussion continued; however, it turned more argumentative as they continued to engage in the civil dispute.

Nicole commented that Deputy Potosky was in full uniform, at which point it prompted a question from Post about her employment status. According to Nicole, it was at this time that Deputy Potosky formally introduced herself and where she currently works. Nicole said that at no point did Deputy Potosky make any threats to file lawsuits or harassment charges against the property management group. Nicole explained they were trying to obtain all of the civil complaints against Nicole from the neighbors. Nicole estimated the total conversation lasted approximately thirty to forty minutes.

Nicole recalled Deputy Potosky did say she was a paralegal during the conversation; however, she said she was not representing Nicole in this dispute. When asked about the comment made by Deputy Potosky (alleged threat) at the conclusion of the dispute. Nicole remembered Deputy Potosky saying, *"if they enter my apartment without my permission that I could call law enforcement"* and *"to protect myself."* When asked how Nicole interpreted that, she said, *"Yeah, no like I when she [Deputy Potosky] said that I kind of was like well I mean I would just close*

the door and lock it like and call the police I wouldn't you know physically do anything like." Nicole was asked if she thought Deputy Potosky's involvement in the civil matter was appropriate. Nicole responded, "like I didn't expect her [Deputy Potosky] to be at work or be in uniform or even talk to the lady. But I mean I was very upset like I couldn't, I couldn't talk at the time so I think that she was just trying to help."

When speaking about Deputy Potosky's involvement, Nicole was asked about Deputy Potosky's behavior. Nicole said, *"my sister I think she tried very hard to be professional at first and when the lady [Post] refused to answer some questions I think she got more upset and frustrated and maybe less professional."* Nicole was also asked if she felt Deputy Potosky used her position as a law enforcement officer as a point of leverage for personal gain. Nicole said, *"no."* While following up on the thought, Nicole advised she found it reasonable for Post and Frias to perceive Deputy Potosky's action as trying to garner a preferable outcome by using her position. Nicole commented, *"she's my older sister and I didn't want to go into this alone and I didn't even think about the fact that she's in uniform. I mean in hindsight I should have I mean it's reasonable for the managers to feel that way but that's not what the intent was."*

Interview with Sergeant John McDonald

On March 14, 2023, at approximately 1430 hours, Sergeant Gordon conducted a sworn recorded interview with Sergeant John McDonald. Sergeant Gordon interviewed Sergeant McDonald at TC Kelly Administrative Office, Deland. Sergeant Gordon, Andrew Calkins, and Sergeant McDonald were present for the interview. Below is a synopsis of the audio-recorded interview.

Sergeant McDonald advised he was on vacation on the date of March 02, 2023. Sergeant McDonald said, *"she sent me a text message notifying me that there was some personal issue that I may receive a complaint from an apartment complex or something like that."* Sergeant McDonald commented, *"I just sent a return text telling her that I would be out of the office that day I wasn't into work and was it necessary to talk to me that day. I received no text back. If I recall later on I had talked, called the control center to see how things were going at the Justice Center and I believe I spoke with her and said that she said it wasn't an emergency and then I said I would talk to her on Monday when I came in."* According to Sergeant McDonald, he had no other contact with Deputy Potosky nor obtained any additional information in reference to the complaint.

Interview with Deputy Megan Potosky

On March 22, 2023, at approximately 1430 hours, Sergeant Gordon conducted a sworn recorded interview with Deputy Megan Potosky. Sergeant Gordon interviewed Deputy Megan Potosky at TC Kelly Administrative Office, Deland. Sergeant Gordon, Andrew Calkins, Deputy Megan

Potosky, and Attorney Michael Lambert were present for the interview. Below is a synopsis of the audio-recorded interview.

Deputy Potosky began the interview by stating her current role within the Sheriff's Office is within Judicial Services and is currently assigned to the Justice Center in Daytona Beach. According to Deputy Potosky, while at work, she received a phone call from her sister, Nicole, in reference to issues with a property management company. The genesis of the issues stemmed from Nicole allegedly breaking her lease agreement. The phone call took place between 1000 hours and 1030 hours. Deputy Potosky explained Nicole is a teacher and thought it strange to receive a phone call from her at that time. Deputy Potosky said, *"Why is she [Nicole] calling me at 10:00 in the morning? So either one of her students somehow got her phone, she's been hit and hurt by her students before, so maybe that or something else. So I answered I'm like hey Nick [Nicole] what's up you know and she was hysterical. And I'm like are you ok?.....So I went into the jail, closed the door and I'm like what's going on? And she's I can't even understand what she's talking about. Something about people going into her apartment. So I'm like is someone breaking into your apartment like what is going on? And she's hysterical so you know I talk to her on the phone got her to breathe and calm down. When she got home she Facetimed me to show me some notice that the apartment brought to her door."*

The two discussed the issues at hand, and then a decision was made for Nicole to speak with the property manager to further understand the situation. When referencing that time, Deputy Potosky recalled, *"so she [Nicole] goes to the front office and I'm like well you know like are you good like are you gonna be ok like do you know what you're gonna talk to them about and she's like well I wanna find out what's going on she's like well will you you know, I'm overwhelmed I'm emotional will you stay on the phone with me? I'm like yeah sure like you're my sister what am I supposed to tell you no?"*

Deputy Potosky advised she remained on the phone while Nicole went to the management office and began speaking with Frias and Post. As the group began to discuss the issues, Deputy Potosky inserted herself into the conversation. At this point, the question was asked who is talking? Deputy Potosky said, *"I said I'm Megan Potosky I'm Nickie's sister you know. And she [Post] was like well you know are you on the lease and I'm like no but you know I'm like you know you can't answer my question? And she was like, she was like no if you're not on the lease like I can't speak to you."* The conversation continued at which point Nicole formally addressed Post's concern and gave authorization for the lease information to be discussed and provided to Deputy Potosky. As the conversation continued, Deputy Potosky recalled, *"she's [Post] like oh maybe you're not understanding like the law or legal terminology you know about him [Nicole's boyfriend] being trespassed and I was like no I was a paralegal like I do understand and at that point I guess my sister had turned the phone I don't know what she had done and she said oh are you wearing a uniform and I said yes I'm a law enforcement officer and she said where? And I*

said Volusia County you know and she said ok and I said you know but Nickie's my sister so you know I'm trying to help her figure out what's going on here." Deputy Potosky advised she was in her law enforcement uniform with agency insignia and her badge prominently displayed.

When referencing the comment made about Deputy Potosky being a paralegal, Deputy Potosky explained that she used to be a paralegal while enlisted in the military. As the conversation continued, it became apparent to Deputy Potosky that the discussion would not provide any benefit to either party. Towards the end of the conversation, Post requested Deputy Potosky's name and badge number. Post also inquired as to who her supervisor was. Deputy Potosky provided the information as requested.

Deputy Potosky was asked if she felt that she involved herself in a civil matter while representing the Volusia Sheriff's Office. Deputy Potosky replied, *"no."* Deputy Potosky was questioned about if she believed it reasonable for the complainant, in this case, to feel that she used her position as a point of leverage in the argument. Deputy Potosky responded, *"I can understand how them seeing me in uniform could have but at no point in time did I say I'm a deputy or I tried to specify anything you know from the Sheriff's Office or as a deputy or anything like that. They asked me why I was in uniform I told them. They asked for my name and my supervisor I told them. If we had had a verbal conversation over the phone they wouldn't have had any idea."*

The topic of providing legal advice while working was discussed. In reference to the topic, Deputy Potosky said, *"I told her [Nicole] when they said I told her to ask for copies of the complaints and they said they would compile them for her and I said ok. And she went on the Marie lady went on to say about possibly starting an eviction process which then started my sister crying and I told her Nickie if they try to evict you you can appeal it I said and then they'll have to provide you proof of the complaints, proof of their investigation and proof of how they sustained those complaints. You know I said all of that would have to come if you go all the way into a trial with it, all of that would have to come out. I said you know and she was like I just don't know what to do at this point. I said well if they're not providing you with proof and you're asking for proof and they still don't provide it and these complaints keep coming but they're all unfounded in your opinion I said you can call law enforcement or you can call an attorney and you can file for harassment."* Deputy Potosky told detectives that she did not believe that to be providing legal advice.

Deputy Potosky then spoke about the conclusion of the conversation between the parties. Deputy Potosky was read the complaint made by Post. Specifically, the conclusion where Post interpreted Deputy Potosky's last comment as a threat. When asked what Deputy Potosky meant by her statement, she stated, *"To lock the door or to leave or to call 911 to record to protect, to protect yourself. My sister doesn't have a firearm, she doesn't have throwing stars or knives or*

any other kind of anything else that could be deemed as a weapon or a way to hurt somebody else. My sister would never hurt anybody else. That's just not in her make up as a person. So you know protect yourself. Again I don't want my sister sitting somewhere crying hysterically while she's uncomfortable because these people are entering her apartment without notice or permission to do so. And she doesn't know any better so she's just going to let them." Deputy Potosky further explained that due to the staff at the company knowing Nicole personally and the totality of the circumstances surrounding the incident, they should have known it was not a threat. In total, Deputy Potosky estimated the entire phone conversation lasted approximately forty-five minutes to an hour.

In hindsight Deputy Potosky made a comment, "That's my fault I should have been more cognizant you know thinking back on it now I should have been more cognizant of what I was wearing where I was what I was doing how that could have been seen by someone else but I was so focused on not making this any worse for her [Nicole] and "Honestly I think if I wasn't on Facetime it would have resolved all the other things because then I wouldn't have been anything more than what I initially introduced myself as of her sister. You know she may have then said oh well you know are you an attorney you know and I would have said no. Because I wasn't but I think the only reason we even got into the law enforcement side of things is because unfortunately I made the poor decision of being in uniform on Facetime trying to help my sister. Like, and that, that I think would have in hindsight would have stopped everything else."

In closing, Deputy Potosky was asked if she violated the following General Orders, and her responses are detailed below:

- | | |
|--|----|
| GO-026-02.IV.B.3 – Any other conduct or action, on-duty or off-duty, of such seriousness that disciplinary action is considered warranted. | No |
| GO-026-02.IV.C.5.g – Failure to Follow General Order, Standard Operating Procedure, or Order | No |
| GO-026-02.IV.B.3 – Any other conduct or action, on-duty or off-duty, of such seriousness that disciplinary action is considered warranted. | No |
| GO-026-02.IV.C.5.g – Failure to Follow General Order, Standard Operating Procedure, or Order | No |
| GO-026-02.IV.G.2.a – General Proficiency | No |
| GO-026-02.IV.D.1.f(1) – Involvement in Civil Matters | No |

GO-026-02.IV.D.9.x – Code of conduct

No

On April 03, 2023, the Internal Affairs investigation was presented to Chief Deputy Brian Henderson and the executive command staff. Upon completion of the presentation, Chief Deputy Henderson sustained the aforementioned General Order violations against Deputy Potosky:

GO-026-02.IV.B.3 – Any other conduct or action, on-duty or off-duty, of such seriousness that disciplinary action is considered warranted. Sustained

GO-026-02.IV.C.5.g – Failure to Follow General Order, Standard Operating Procedure, or Order Sustained

GO-026-02.IV.G.2.a – General Proficiency Sustained

GO-026-02.IV.D.1.f.(1) – Involvement in Civil Matters Sustained

GO-026-02.IV.D.9.x – Code of conduct Sustained

EXHIBITS:

- A. Report of Investigation
- B. Official Correspondence
- C. Complaint
- D. Courthouse Records
- E. Transcript of Interview with Marie Post
- F. Transcript of Interview with Tempestt Frias
- G. Transcript of Interview with Alyssa Rothenberger
- H. Transcript of Interview with Nicole Potosky
- I. Transcript of Interview with Sergeant McDonald
- J. Transcript of Interview with Deputy Potosky
- K. Digital Evidence (Audio of Interviews)

WITNESSES:

Maria Post

Tempestt Frias

Melissa Rothenberger

715 Camarague Place, Lake Mary, FL 32746

Nicole Potosky

790 Silver Cloud Cir, Lake Mary, FL 32746

Sergeant John McDonald

Volusia Sheriff's Office 123 W. Indiana Avenue
DeLand, FL 32720

Under penalties of perjury, I declare that I have read the foregoing document and that the facts stated in it are true to the best of my knowledge and belief.

AND

I, the undersigned, do hereby swear, under the 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 suspect of the investigation of any rights contained in ss. 112.532 and 112.533, Florida Statutes.

DETECTIVE: [Signature] ⁷⁷⁴⁴ DATE: 5/04/23

**Detective Sergeant Ben Gordon
Internal Affairs Detective Sergeant**

**STATE OF FLORIDA
COUNTY OF VOLUSIA**

Sworn to (or affirmed) and subscribed before me by means of physical presence or online
Notarized this 4th day of May, 2023 by Sergeant Ben Gordon

[Signature]

SIGNATURE OF NOTARY PUBLIC-STATE OF FLORIDA



PRINT, TYPE, OR STAMP COMMISSIONED NAME OF NOTARY PUBLIC

PERSONALLY KNOWN OR PRODUCED IDENTIFICATION

TYPE OF IDENTIFICATION PRODUCED

APPROVED BY: [Signature] DATE: 5/04/2023

**CHIEF DEPUTY BRIAN HENDERSON
VOLUSIA COUNTY, FLORIDA**

Chief Deputy
BRIAN HENDERSON

OFFICE
(386) 736-5961



VOLUSIA SHERIFF'S OFFICE

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April 21, 2023

Deputy Megan Potosky, #8990
Volusia Sheriff's Office
SOD / Judicial Services

Final Notice of Discipline

Deputy Potosky:

Volusia Sheriff's Office General Order GO-026-02 requires that all "Employees shall adhere to all official Directives and/or orders, and shall faithfully execute all the duties and responsibilities of their assigned position." Because of your actions or inactions documented in IA 23-004, I have determined you violated the following Sheriff's Office General Orders:

Volusia Sheriff's Office General Orders:

GO-026-02.IV.B.3 – Any other conduct or action, on-duty or off-duty, of such seriousness that disciplinary action is considered warranted.

GO-026-02.IV.C.5.g – Failure to Follow General Order, Standard Operating Procedure, or Order – Employees shall adhere to all official general orders, standard operational procedures, and orders, and shall faithfully execute all the duties and responsibilities of their assigned position. MK

GO-026-02.IV.G.2.a – General Proficiency – VSO personnel are required to possess a sound working knowledge of the policies and procedures established by general orders and standard operating procedures.

GO-026-02.IV.D.1.f.(1) – Involvement in Civil Matters – Employees shall not involve themselves in civil actions or disputes of other persons nor shall they presume to adjudicate any civil dispute or give advice in civil matters beyond referring parties to the proper agency or class of persons equipped to handle their problem.

GO-026-02.IV.D.9.x – Code of conduct – Employees of the VSO are employed to provide service to the citizenry and the public in general and are expected to conduct themselves in a manner that will reflect credit upon the VSO. Employees must avoid any action which might result in or create the impression of using public office for private gain, giving preferential treatment to any person, or losing impartiality in conducting public business.

To Wit:

On March 02, 2023, you involved yourself in a conversation between a property management group and your sister. The conversation occurred over the phone via “FaceTime.” It was determined you took part in the conversation while you were working at a courthouse and wearing your issued uniform, which prominently displayed agency insignia.

The conversation was civil in nature and did not require the involvement of law enforcement personnel. During the conversation, you chose to directly involve yourself in a civil matter while working as a uniformed Volusia Sheriff’s Office Deputy. The conversation quickly turned into an argument that failed to produce any meaningful resolution. According to the complainant and other witnesses, you needlessly inserted yourself into a civil dispute which did not involve you. Furthermore, your actions during the argument created the impression of using your official position to influence the outcome of the issue.

While speaking about the incident, you agreed that if you had not utilized “FaceTime” while speaking to the property management staff, this would all have been avoided. During your interview, you reasoned that you never introduced yourself as a law enforcement officer with the Volusia Sheriff’s Office. However, you failed to recognize how involving yourself in your sister’s civil dispute in an entirely different county while you were supposed to be working your assigned position for judicial services was a lapse in judgment. The complainant noted her concern that you used your position as a law enforcement officer to garner preferential treatment. When asked specifically if you felt the complainant’s concerns were valid, you minimized the complainant’s perspective on the matter by saying “perception can be whatever you want it to be,” and that their perception was subjective. In the interview with your own sister, she felt it reasonable for the complainant to think you were using your position as a deputy as a point of leverage during the argument.

Deputy Potosky, you are held to the highest standards as a Deputy with the Volusia Sheriff’s Office. Your decision to involve yourself in this civil matter while in uniform was inappropriate and showed a lack of discretion. Your actions during the incident created an unfavorable perception in the eyes of the public you are called to serve. One of the core tenets of the Sheriff’s Office is to build public trust and not to diminish or tarnish it. Your poor decision-making and carelessness will not be tolerated.

You have previously been the subject of the following disciplinary action:

| | | | |
|------------|--------------------|--|-----------|
| 06/12/2022 | 26.2.14 | Tardiness | Sustained |
| 10/03/2021 | GO-026-02.IV.C.3.a | Absence from Duty without Proper Notification | Sustained |
| | GO-026-02.IV.C.3.c | Tardiness | |
| | GO-026-02.IV.C.5.f | Inattention to Duties, Loafing, Sleeping | |
| 01/12/2022 | GO-026-02.IV.D.6.i | Careless Handling of Equipment and Vehicles | Sustained |
| 07/12/2022 | GO-026-02.IV.C.5.q | Handling of Prisoners | Sustained |

In determining your discipline, I have considered your prior disciplinary history, performance, length of service with VSO, and seriousness of the circumstances of the most recent violations.

Deputy Potosky, you were served with an "Intent to Suspend" letter on April 06, 2023, advising you of Division Chief Morgan's intent to suspend you from duty without pay for eight (8) hours. On April 19, 2023, you appeared before me and had the opportunity to offer any mitigating circumstances that should be considered prior to the final discipline. After earnest consideration, my final decision is to issue you a **Letter of Reprimand (LOR)** in reference to the General Orders you violated.

If there are any concerns or questions troubling you that I am not aware of, please advise me so I will have the opportunity to assist you in correcting this problem.

Pursuant to the Volusia Sheriff's Office General Orders, Volusia Sheriff's Office General Counsel has reviewed and concurred with this action.



Any subsequent discipline can result in more severe administrative action, up to and including dismissal. Take due care and govern yourself accordingly. Be especially aware of **Progressive Discipline GO 26-01**.

Sincerely,



BRIAN HENDERSON
CHIEF DEPUTY

cc: VSO Human Resources
VSO General Counsel
Internal Affairs

BH/bg 041L0047.23



This letter was read and received by:
Deputy Megan Potosky, #8990

Date: 4/21/23

Time: 1613

Served by: [Signature] 7144