

Subject: RE: Response to VCSO comments

From: "Davidson, Gary" <GDavidson@vcs0.us>

Date: Tue, 14 Dec 2010 09:52:22 -0500

To: "VolusiaExposed.Com" <volusiaexposed@cfl.rr.com>

This correspondence is to advise the status of our review of the information and materials furnished by VolusiaExposed.com in an e-mail dated December 12, 2010. After reviewing the information, we are in agreement with your interpretation. Accordingly, the Sheriff's Office is immediately initiating an internal investigation into this matter.

Thank you for bringing this unintentional oversight to our attention. As evidenced by Sheriff Johnson's prompt request to the State Attorney's Office on the day after the accident for an independent criminal investigation, you can be assured that the Sheriff's Office is fully committed to a thorough examination and review of the facts and circumstances surrounding the fatal crash so that all necessary and appropriate actions can be taken.

Gary Davidson
Public Information Officer
Volusia County Sheriff's Office

From: VolusiaExposed.Com [mailto:volusiaexposed@cfl.rr.com]
Sent: Sunday, December 12, 2010 2:36 PM
To: Davidson, Gary
Subject: Response to VCSO comments

Mr. Gary Davidson
Volusia County Sheriff Department
Public Information Officer

Dear Mr. Gary Davidson / Sheriff Ben Johnson:

In the reader's comment section of the below media article - you apparently responded to a comment made by VolusiaExposed.Com. (see bottom of letter for posted reader comments)

<http://www.beacononlinenews.com/news/daily/3310>

We strongly disagree with the apparent positions of the VCSO.

1. That Captain Osowski's retirement would negate any investigation by VCSO into his alleged

misconduct. We believe State Law mandates an agency investigation regardless of a resignation or retirement. (see below State Law and the attached Professional Bulletin from FDLE / CJSTC)

2. That the State Attorney (SA) investigation can be in lieu of the employing agency's mandated investigation. We believe State law mandates an investigation by the employing agency (VCSO).

3. That VCSO would only be obligated to investigate should the State Attorney determine participation by other members of the VCSO. We believe that the employing agency (VCSO) has a mandated requirement to conduct their own investigation on Captain Osowski, regardless of others involvement..

It appears that VCSO, a law enforcement agency, is failing to enforce the very laws they have been entrusted to enforce.

Please allow me to introduce you to Florida State Statute 943.1395(5) which reads -

"The employing agency must conduct an internal investigation if it has cause to suspect that an officer is not in compliance with, or has failed to maintain compliance with, s. 943.13(4) or (7). If an officer is not in compliance with, or has failed to maintain compliance with, s. 943.13(4) or (7), the employing agency must submit the investigative findings and supporting information and documentation to the commission in accordance with rules adopted by the commission. The commission may inspect and copy an employing agency's records to ensure compliance with this subsection."

It is important to stress that the above mandated investigation must be completed by the EMPLOYING AGENCY - in short, VCSO, not the local SA. However, the local SA should be conducting their own independent investigation.

Mr. Davidson, please allow me to further introduce you to the May 2010 Professional Compliance Bulletin published by the Florida Department of Law Enforcement. (See PDF copy of this bulletin)

Sir, I suggest you read page 3 to 4 of the above mentioned professional bulletin. Within those pages, FDLE reminds law enforcement agencies of the requirements of F.S. 943.1395(5) and further makes the following statement (page 4).

"Frequently, officer under investigation for possible violations of the Commission's moral character standards will resign or retire. Additionally, some agencies administratively separate an officer suspected of a violation rather than conduct an investigation into allegations. Regardless of the officer's employment status with the agency, Commission rules requires that an investigation be completed and sustained allegations forwarded to Commission staff" -- FDLE / CJSTC

We find it difficult to believe that VCSO is not keenly aware of their responsibilities regarding the opening of an internal agency investigation into the alleged misconduct (possible criminal acts) of Captain Osowski. Such refusal to immediately open this investigation appears to be more by design rather than by mistake.

As you should know, when an internal investigation is opened, all participants are legally required not to

discuss that matter while the investigation is on going. We predict that eventually, the VCSO will be compelled to follow the requirements of F.S. 943.1395(5) and conduct an independent agency investigation. However, because of the time delay, individuals involved had the time to get their "stories" straight. Such a delayed investigation will be as ineffective as was the 20 hour late blood test of Michael Osowski. We are left wondering – were the delays, whether Osowski's delay in the blood draw or the VCSO delaying the opening of the mandated internal investigation all well thought out plans by the participants in order to blur the facts to such a degree that the truth of the matter is beyond reach?

We hope this information will assist you in the performance of your duties, and your search for the truth that the public will and does surely demand.

Thank You

VolusiaExposed.Com

**Keeping the public safety employees we trust to enforce our laws,
within the law.**

Attachments : cjstcbulletin.pdf

Bcc: Media outlets

FDLE

Blog comments:

volusiaexposed | posted Dec 9, 2010 - 1:53:01pm

No internal affairs investigation...why not, he is not leaving until Jan 2011. Also, the investigation might reveal that others in the VCSO HELPED the Captain in getting his son from the scene.... doesn't Florida regulations state that an officer that retires to avoid an investigation is terminated under misconduct? check the website out volusiaexposedDOTcom

Gary Davidson, PIO | posted Dec 10, 2010 - 7:21:33am

In response to volusiaexposed, the Sheriff's Office has not said that it will not be conducting any internal investigation. What we did say is that Captain Osowski's decision to retire negates the need to conduct an internal investigation into his actions. When all is said and done, there may be a need to look at the actions of

the other deputies at the scene to determine whether anyone else did anything wrong. The interviews and information developed by the State Attorney's Office during the criminal investigation requested by Sheriff Johnson should shed some light on the actions of the other deputies at the scene and help determine whether an internal investigation is warranted. Hope that clears it up for you.

Volusiaexposed | posted Dec 12, 2010 - 12:22:29pm

In response to Gary Davidson PIO -- VCSO has an obligation to conduct (sp) an investigation regardless of what the SA investigation reveals. As you know Florida Statute 943.1395(5) states this and a May 2010 FDLE / CJSTC Compliance bulletin spells this out - basically, regardless of whether an employee opts to resign or retire while under investigation - the investigation must be completed by the employing agency (VCSO)....these documents (FDLE Compliance Bulletin can be read on volusiaexposedDOTcom. - Mr Davidson, I will sent you a copy (via email) of this FDLE bulletin for your review.

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