

**VOLUSIA COUNTY SHERIFF'S OFFICE  
INTERNAL AFFAIRS**

**REPORT OF INVESTIGATION**

**REPORT NUMBER: IA-13-013**

**PERIOD COVERED:** July 29, 2013  
**DATE REPORTED:** August 2, 2013  
**SUBJECT(S) NAME:** Sergeant Sean Dwan ID 7110  
**INVESTIGATING OFFICER:** Lieutenant Erik Eagan ID 2273

**BASIS FOR INVESTIGATION:**

On July 29, 2013 at 1118 hours, Senior Deputy Sean Johnson, working the security checkpoint at the Volusia County Courthouse Annex, Daytona Beach, FL, identified a concealed belt knife worn by a suspect. Senior Deputy Johnson immediately seized the contraband and showed the belt knife to Sergeant Sean Dwan and Senior Deputy Sylvia Gainer who were also working the security checkpoint. Sergeant Dwan immediately pointed towards the courthouse exit doors and told the suspect to take the knife out to his vehicle and leave the item there. Senior Deputy Johnson realized the significance of the concealed belt knife and requested the item be photographed prior to releasing it to the suspect.

On the same date, Lieutenant Brian Barnard was tasked with completing a supervisor's inquiry into the release of contraband by deputies at the Volusia County Courthouse Annex. Based on Lieutenant Barnard's finding from his supervisor's inquiry, he determined deputies did not run the suspect in FCIC/NCIC and verify if he was or was not a convicted felon; a thorough investigation was not completed before releasing the suspect and the contraband. Had the suspect been a convicted felon, the offense of carrying a concealed weapon would have been a second degree felony crime. Sergeant Dwan was purposely not interviewed during the supervisor's inquiry. Because of the potential of adverse action against Sergeant Dwan, the case was referred to the Internal Affairs Unit for investigation. *(See Tab – C For Police Report and Supervisor's Inquiry)*

**OFFENSE:**

This investigation is relevant to an alleged violation of Department Standards Directive:

**26.2.41 Negligence Associated with Safety of Persons or Property** - Employees shall be attentive to job duties and shall not violate official Directives, orders, supervisory instructions, or knowingly refrain and cause another to refrain from the performance of lawful duties required for the safety of persons or property. *(Violation subject up to a*

*demotion.)*

**26.2.131** Department personnel are required to maintain the job knowledge, skills and abilities required for the performance of the duties and responsibilities attendant to their position as described by the County Merit System Job Classification Plan and Chapters 21, 22 and 35 of this Manual.

**26.2.133** Repeated failure to maintain necessary skills, knowledge and abilities after counseling and instruction shall result in increasing the severity of disciplinary actions. *(Violation subject up to dismissal.)*

#### **INVESTIGATIVE SUMMARY:**

On August 2, 2013, Chief Deputy Mike Coffin assigned the Internal Affairs Unit an investigation of an allegation against Sergeant Sean Dwan for being neglectful in his duties as a supervisor working at the Volusia County Courthouse Annex, Daytona Beach, FL. It is also alleged Sergeant Dwan has repeatedly not maintained the required job knowledge, skills and abilities required for the performance of the duties and responsibilities attendant to his position. This report details the internal affairs investigation conducted by Lieutenant Erik Eagan.

On August 2, 2013, Investigator Glen Bennett served Sergeant Dwan with his Notification of Internal Investigation and he was provided a copy of the Law Enforcement Officer's Rights at the intersection of Williamson and Bellevue, Daytona Beach, FL. *(See Tab – B for Official Correspondence)*

#### **Senior Deputy Sean Johnson**

On August 5, 2013, Lieutenant Eagan and Sergeant Tom Tatum conducted a sworn recorded interview with Senior Deputy Sean Johnson at the Volusia County Courthouse Annex in Daytona Beach, FL. The following is a summary of the interview.

Senior Deputy Johnson is a fifteen year deputy with the Volusia County Sheriff's Office. He has worked numerous assignments within the agency, including: patrol, street crimes, anti-crime and court security. Senior Deputy Johnson told investigators he was assigned to the security checkpoint at the Courthouse Annex on July 29, 2013 at 1118 hours when Jonathan Morden set off the magnetometer indicating the possibility he had a metal object on his person. Senior Deputy Johnson performed his responsibilities as the screening deputy and asked the suspect to display the inside of his belt buckle after obtaining a secondary positive reaction with the hand wand to Mr. Morden's midsection. Senior Deputy Johnson proceeded to inspect Mr. Morden's posterior midsection and re-inspected Mr. Morden's belt buckle because he thought the backside of the belt buckle was unusual. Senior Deputy Johnson requested Mr. Morden remove his belt for further inspection and he identified Mr. Morden was wearing a concealed belt knife in violation of FSS 790.01 (1).

Senior Deputy Johnson said he immediately showed the concealed belt knife to Sergeant Sean Dwan and Senior Deputy Sylvia Gainer. Senior Deputy Johnson stated Sergeant Dwan had an instant response for the suspect to take the contraband out of the courthouse and store it in his vehicle. Senior Deputy Johnson said Sergeant Dwan's direction was a customary practice for common weapons inadvertently brought into the Courthouse Annex. Senior Deputy Johnson, however, told investigators the concealed belt knife was not a common weapon seen daily at the courthouse. He described common weapons as pocket knives, scissors in purses, etc. Senior Deputy Johnson halted Sergeant Dwan's direction to Mr. Morden and requested the concealed weapon be photographed for training and informational purposes. He explained that deputies had been having difficulties with individuals and specifically attorneys refusing to remove their belt as part of the screening process. Senior Deputy Johnson said finding a concealed knife belt validated the screener deputies' and supervisors' concerns. *(See Tab-E For Complete Transcript of Interview)*

### **Senior Deputy Sylvia Gainer**

On August 6, 2013, Lieutenant Eagan conducted a sworn recorded interview with Senior Deputy Sylvia Gainer at the Volusia County Courthouse Annex in Daytona Beach, FL. The following is a summary of the interview.

Senior Deputy Gainer is a thirty-three year veteran law enforcement officer who has worked for the Volusia County Sheriff's Office for the past twenty-six years. She has held many assignments during her career to include: patrol, school resource deputy, investigator, court security and bailiff. Senior Deputy Gainer told Lieutenant Eagan she was assigned to the Courthouse Annex front security checkpoint on July 29, 2013. She was operating the x-ray screening device when the suspect, Mr. Morden and his female companion entered the courthouse.

Senior Deputy Gainer said Senior Deputy Johnson was working the magnetometer screening deputy position and Mr. Morden set off the screening device. She said Senior Deputy Johnson immediately began manually screening Mr. Morden with the wand metal detector. During that process, Senior Deputy Johnson identified a concealed belt knife and showed the contraband to her and Sergeant Dwan. Senior Deputy Gainer explained Sergeant Dwan was at the front security checkpoint when the discovery was made by Senior Deputy Johnson. She said Sergeant Dwan immediately gave the suspect direction to take the concealed belt knife to his vehicle. Senior Deputy Gainer said Sergeant Dwan's direction was a common practice for all screening deputies to have individuals entering the courthouse with weapons to store the items in their vehicles. She said Senior Deputy Johnson requested that they photograph the belt knife before it was removed from the building. Senior Deputy Gainer told Lieutenant Eagan that Sergeant Dwan agreed with the idea and he photographed the belt knife before returning the item to Mr. Morden.

Senior Deputy Gainer said based on her thirty-three years of law enforcement training and experience, she thought the belt knife was a concealed weapon. She described the belt knife as a dagger, rather than a knife. She believed Mr. Morden committed the

elements of the crime, carrying a concealed weapon FSS 790.01. Senior Deputy Gainer told Lieutenant Eagan she, Senior Deputy Johnson or Sergeant Dwan did not verify if Mr. Morden had a concealed weapons permit or run a criminal history in FCIC/NCIC to make sure he was not a convicted felon.

Senior Deputy Gainer reviewed the three surveillance photographs Lieutenant Eagan provided her. She described photograph number two as Mr. Morden raising his arms as directed by Senior Deputy Johnson after passing through the magnetometer. She described photograph number one as Sergeant Dwan pointing to the parking lot, telling the suspect to take his belt "...back out in his car..." She then described photograph number three depicting Sergeant Dwan photographing the concealed belt knife. She was also shown a seven page internet article which included color photographs of a Bowen Knife Company belt knife. Senior Deputy Gainer believed the photographs in the article were a fair and accurate representation of the knife Senior Deputy Johnson found concealed on Mr. Morden on July 29, 2013 (Lieutenant Eagan was not provided color photographs of the belt knife encountered on July 29, 2013). The Bowen Knife Company is located in Magnolia, Arkansas, the same city and state Mr. Morden was born and used to reside. Apparently Mr. Morden's female companion told deputies a relative of hers worked for the belt knife manufacturer.

Senior Deputy Gainer told Lieutenant Eagan it was "*a great possibility*" Mr. Morden could have been probing the security features of the courthouse. She thought Mr. Morden could have been testing the concealment benefits of the belt knife while trying to enter a secure facility. She suggested Mr. Morden had to have known he was wearing a belt knife and did not act surprised when confronted with the concealed weapon. Senior Deputy Gainer told Lieutenant Eagan, in hindsight the matter should have been handled differently and a complaint affidavit should have been filed against Mr. Morden for the law violation. *(See Tab-F For Complete Transcript of Interview)*

On August 9, 2013, Sergeant Dwan was served in the Sheriff's conference room with an amended Notification of Internal Investigation and he was provided a copy of the Law Enforcement Officer's Rights. Based on Sergeant Dwan's discipline history, he was additionally charged with violating department directive 26.2.133 Repeated Failure To Maintain Required Skills. He has received discipline three previous times (04/28/2008, 03/23/2010 and 06/24/2012), for violations of department directive 26.2.132 Failure To Maintain Required Skills and two previous times (08/16/2007 and 06/24/2012) for violations of department directive 26.2.133 Repeated Failure To Maintain Required Skills. *(See Tab - B for Official Correspondence)*

### **Sergeant Sean Dwan**

On August 9, 2013, Lieutenant Eagan and Sergeant Tatum conducted a sworn recorded interview with Sergeant Dwan in the Sheriff's conference room at the Volusia County Administration building in DeLand, FL. Also present were Teamster's Business Agent Bob Walker and Teamster's Representative Keith Dalton. The following is a summary of the interview.

Sergeant Dwan is a thirteen (13) year law enforcement officer and has worked for the Volusia County Sheriff's Office for almost eight (8) years. He has been a supervisor for the Sheriff's Office for two (2) years and has worked at the Courthouse Annex as the bailiff supervisor for more than one (1) year.

Sergeant Dwan admitted to receiving on-the-job training working at the Courthouse Annex as an overtime deputy and as a Sergeant assigned to the Courthouse Annex. He tried to diminish the training he received as a supervisor by saying, *"I had a brief overview nothing elaborate but I did have an overview yes."*

Sergeant Dwan refused to watch the surveillance video prior to the interview and he was given another opportunity during questioning when investigators questioned Sergeant Dwan's explanation of events with the concealed belt knife.

Sergeant Dwan was asked to describe the belt knife concealed weapon incident that occurred on July 29, 2013. Sergeant Dwan replied, *"...The belt was removed. Dep. Johnson handed me the belt, I photographed it and as per standard procedure what we have been doing since the time I've been there we ask them to just return the belt to his car."*

Sergeant Dwan said it was a little unusual that the suspect did not disclose the concealed weapon when Deputy Johnson asked the suspect to flip his belt over. Sergeant Dwan offered no explanation for not questioning the suspect. He used the excuse; it was pretty common to turn people away. Sergeant Dwan then suggested he did not know why the suspect or his female acquaintance wasn't questioned. When pressed, Sergeant Dwan told investigators he made the decision based on the totality of the circumstances.

Sergeant Dwan stated his decision to direct Mr. Morden to his vehicle was based on these totality of circumstances: 1. Common practice in the courthouse, 2. Demeanor of the subject, 3. The feelings you get as an officer, 4. Subject was from out of state, 5. Family member was associated with knife company, 6. He (Sergeant Dwan) didn't know the state laws in Arkansas and 7. Subjects were at the courthouse for voter registration.

Sergeant Dwan's explanation did not fit the video evidence provided from the courthouse surveillance video. Sergeant Dwan pointed and directed Mr. Morden to take his belt to his vehicle before any discussion with Senior Deputy Johnson or Mr. Morden. Sergeant Dwan could not have known the subject was from out of state, purpose for his visit or the relationship to the knife manufacturer. The suspect was wearing flip flops, shorts, tank top, baseball cap backwards and still wearing sunglasses in the building.

Sergeant Dwan was questioned why he engaged the suspect when Deputy Johnson was dealing with the suspect. Sergeant Dwan was asked why he did not play the cover officer in this incident. Sergeant Dwan said he just interjected, telling the suspect to take the concealed weapon to his vehicle. He stated, *"I don't think I have a sufficient answer sir."*



Sergeant Dwan told investigators the belt knife brought into the Courthouse Annex in Daytona Beach by Mr. Morden was a concealed weapon as defined by state statute 790.011 and met the elements of the crime, carrying a concealed weapon per Florida state statute 790.01(1). He acknowledged he did not run Mr. Morden in FCIC/NCIC for more than one hour after the encounter with deputies. Nor did Sergeant Dwan verify if Mr. Morden had a concealed weapons permit. He explained *"...it was common operating procedure...when we discover a weapon or knives, miscellaneous scissors, etcetera. We've always turned them away and just had them return them to their car because it happens multiple times per day."* Sergeant Dwan said this was the first concealed weapon he had encountered at the courthouse. He was unaware that a convicted felon would be charged with a second degree felony rather than the first degree misdemeanor for carrying a concealed weapon. Sergeant Dwan did not know if Senior Deputies Johnson and Gainer ran the suspect in FCIC/NCIC. Sergeant Dwan said he ran the suspect's name more than one hour after the incident.

Sergeant Dwan described the screen shot photographs provided to him before the interview. Photograph one depicts Sergeant Dwan pointing for the suspect to remove the concealed weapon to his car. Photograph two depicts the suspect just coming through the magnetometer. Photograph three shows Sergeant Dwan photographing the concealed weapon. Photograph four and five are the signs outside the courthouse entrance and on the inside courthouse security checkpoint, respectively. Photographs six and seven depict the concealed knife in the belt and concealed knife alone, respectively. Sergeant Dwan thought photographs six and seven were the photographs he took the day of the incident. He was informed the photos were found on the internet. Sergeant Dwan agreed photos six and seven accurately depict the concealed belt knife. He also agreed the photographs in the seven page article on the Bowen Knife Company belt knife were accurate depictions of the knife that was encountered on July 29, 2013 (Lieutenant Eagan was not provided color photographs of the belt knife encountered on July 29, 2013).

Sergeant Dwan told investigators he did not know if the suspect was probing the security of the courthouse or testing the concealment benefits of the belt knife. He said in hindsight he would have handled the matter differently. Sergeant Dwan stated he would have identified the suspect immediately and more thoroughly, completed a charging affidavit, verify he was not a felon and the decision to arrest would still be discretionary. Sergeant Dwan thought he could have done a better job as the on scene supervisor. Sergeant Dwan did not recall any specific direction from Captain McDonald on handling weapons at the courthouse. Sergeant Dwan admitted Captain McDonald had given him the direction to arrest when dealing with a concealed firearm being illegally entered into the courthouse. Sergeant Dwan was unsure if there was a specific protocol in place for handling concealed weapons. When pressed, Sergeant Dwan told investigators, the protocol would be to follow state statute.

Sergeant Dwan was asked why he or his deputies did not interview the suspect, prior to releasing him. Sergeant Dwan initially did not have an answer. When questioned again, Sergeant Dwan told investigators it was a customary practice to turn people away from

the courthouse that brought in weapons. He admits this incident was different, but that was the reasoning for not interviewing the suspect or his acquaintance.

Sergeant Dwan provided investigators with the Daytona Beach and New Smyrna Beach Courthouse Annex's Security Screening Reports from January to July excluding the month of March. The reports indicate more than one thousand (1000) knives were detected during the first seven months of the year at the two courthouses. Lieutenant Eagan requested the Daytona Beach Courthouse Annex Security Census Reports for January to July 2013 from Sergeant Jonelle Hillyard. Sergeant Hillyard is in charge of courtroom security and prisoner transport at the Courthouse Annexes. The reports she sent Lieutenant Eagan indicate seven hundred ninety-nine (799) knives were detected at the Daytona Beach Courthouse Annex during the first seven months of the year in 2013. According to Sergeant Hillyard, there were no arrests associated with the seven hundred ninety-nine (799) detected knives. These reports do not differentiate between concealed weapons, knives or common pocket knives. *(See Tab-H For Miscellaneous Documents)*

Sergeant Dwan provided investigators with a VCSO incident report referenced by 13-20913 and dated August 1, 2013, where a fifteen (15) year old juvenile on ankle monitoring surreptitiously brought a pair of scissors in his shoe into the DeLand Courthouse. The juvenile was not charged with the offense and a deputy was injured while removing the contraband from the shoe. The x-ray photograph of the shoe clearly shows the scissors hidden in the sole of the shoe. *(See Tab-H For Miscellaneous Documents)*

Lieutenant Eagan obtained a copy of a VCSO incident report referenced by 12-22163 and dated July 26, 2012, where a sixty-three (63) year old man surreptitiously brought a similar styled belt knife into the Daytona Beach International Airport Transportation Security Administration security checkpoint. The suspect was charged by complaint affidavit for carrying a concealed weapon. The outcome of the criminal case is unknown because it is still pending. *(See Tab-H For Miscellaneous Documents)*

Sergeant Dwan was questioned about previous incidents of discipline sustained against him. He has received discipline three previous times (04/28/2008, 03/23/2010 and 06/24/2012), for violations of department directive 26.2.132 Failure To Maintain Required Skills and two previous times (08/16/2007 and 06/24/2012) for violations of department directive 26.2.133 Repeated Failure To Maintain Required Skills. Sergeant Dwan offered a mitigating explanation for each incident he was disciplined for failure or repeated failure to maintain his required skills. Sergeant Dwan was questioned about the pattern of neglect and lack of job knowledge. He could not offer any explanation to investigators.

When questioned, Sergeant Dwan had the following response as to whether he felt he violated the following policy:

**26.2.41 Negligence Associated with Safety of Persons or Property - Employees** Yes shall be attentive to job duties and shall not violate official Directives, orders,

supervisory instructions, or knowingly refrain and cause another to refrain from the performance of lawful duties required for the safety of persons or property. *(Violation subject up to a demotion.)*

**26.2.131** Department personnel are required to maintain the job knowledge, skills and abilities required for the performance of the duties and responsibilities attendant to their position as described by the County Merit System Job Classification Plan and Chapters 21, 22 and 35 of this Manual. Yes

**26.2.133** Repeated failure to maintain necessary skills, knowledge and abilities after counseling and instruction shall result in increasing the severity of disciplinary actions. *(Violation subject up to dismissal.)* Yes  
*(See Tab-G For Complete Transcript of Interview)*

On August 12, 2013, Lieutenant Eagan received four e-mails from Sergeant Dwan's Teamster's representative, Keith Dalton. The e-mails included; "Chapter Two" from the Volusia County Sheriff's Office Court Services Unit Operations Manual, two duplicate e-mails from Captain Joe McDonald to JSD-CSU Supervisors dated February 5, 2013 and titled *Belt Count Annex* and an e-mail from Captain Joe McDonald to JSD-CSU Supervisors dated February 13, 2013 and titled *Security Screening, Court Facility*. The Chapter Two e-mailed document describes the security screening process at the courthouse facilities. The document does not give direction to security personnel on how to resolve or dispose of weapons found during the screening process. The *Belt Count Annex* e-mail is an edict from Captain McDonald to courthouse security personnel to not ask patrons to remove their belts unless there is cause as outlined in paragraph 2 of the Walk Thru Metal Detector section of the above referenced operations manual. The Security Screening, Court Facility e-mail is an amendment to the operations manual from Captain McDonald to courthouse security personnel. The amendment reads:

**BELTS** - *No one will ever provide an open ended statement to those waiting in line to remove their belts. The belts worn by the patrons shall be addressed on a case-by-case basis, at the front of the line by the deputy operating the X-ray or the deputy providing property bins and within the guidelines and direction of Chapter 2*

All three documents provided by Sergeant Dwan, through his union representative do not aid, mitigate or substantiate the allegations against him. The documentation did not differentiate between a weapon and a concealed weapon.

## **CONCLUSION:**

On August 20, 2013, this investigation was presented to the Sheriff and his administrative staff. After review, the Sheriff determined the violations of the below listed Department Standards Directive to be:

**26.2.41 Negligence Associated with Safety of Persons or Property – Sustained**



**26.2.131** Department personnel are required to maintain the job knowledge, skills and abilities - **Sustained**

**26.2.133** Repeated failure to maintain necessary skills, knowledge and abilities - **Sustained**

Sheriff Ben Johnson tentatively determined Sergeant Dwan would serve a three (3) day suspension without pay for his discipline as a result of this internal investigation.

On September 3, 2013, Lieutenant Eagan served Sergeant Dwan with his Intent to Suspend letter at the Volusia County Courthouse Annex parking lot in Daytona Beach, FL.

Sergeant Dwan met with Sheriff Johnson on September 10, 2013 for a pre-disciplinary hearing in the Sheriff's conference room at the Volusia County Administration building in DeLand, FL. Also present during the hearing were Chief Deputy Mike Coffin, Major Rocky Norris, Lieutenant Eagan and Teamsters representatives Brodie Hughes and Josh Vedder. After earnest consideration; Sheriff Johnson decided to suspend Sergeant Dwan for three (3) days without pay.

On September 12, 2013, Sergeant Tatum served Sergeant Dwan with his Final Suspension letter at the Volusia County Courthouse Annex in Daytona Beach, FL. Sergeant Dwan will serve a three (3) day suspension without pay on September 16, 17 and 18, 2013.

**EXHIBITS:**

- A. Report Of Investigation
- B. Official Correspondence
- C. Complaint – Supervisor's Inquiry & Police Report
- D. Advisement Administration Of Oath/Perjury Warning/Garrity Warning
- E. Official Transcript Of Senior Deputy Sean Johnson
- F. Official Transcripts Of Senior Deputy Sylvia Gainer
- G. Official Transcript Of Sergeant Sean Dwan
- H. Miscellaneous Documents
- I. Digital Media

**WITNESSES:**

Lieutenant Brian Barnard  
Volusia County Sheriff's Office  
386-740-5275

Senior Deputy Sylvia Gainer  
Volusia County Sheriff's Office  
386-740-5275

Senior Deputy Sean Johnson  
Volusia County Sheriff's Office  
386-740-5275

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.

INVESTIGATOR:  DATE: 09/12/13

**Lieutenant Erik Eagan**  
**Internal Affairs Investigator**

APPROVED BY:  DATE: 09/12/13

**Chief Deputy Mike Coffin**  
**SHERIFF BEN F. JOHNSON**  
**VOLUSIA COUNTY FLORIDA**