

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

REPORT OF INVESTIGATION

REPORT NUMBER: IA # 10-022

PERIOD COVERED: September 30, 2009 to September 29, 2010.

DATE REPORTED: September 28, 2010

SUBJECT(S) NAME: Deputy Shane Duggan ID # 7343

INVESTIGATING OFFICER: Lieutenant R. Goggin

BASIS FOR INVESTIGATION:

On Tuesday, September 28, 2010, Sergeant Dominick Amendolare was contacted by Assistant State Attorney Erica Cane. Ms. Cane advised Sergeant Amendolare that during court proceedings, Felony charges had been dropped in a Battery on a Law Enforcement Officer case involving Deputy Shane Duggan. Ms. Cane advised the defense had produced a Ninety minute video of Deputy Shane Duggan meeting with the female defendant while off duty to return personal item(s) obtained during the arrest of the defendant.

OFFENSE(S):

26.2.108 Perjury in an Official Proceeding - Employees shall not knowingly make false statements while under oath in any court, civil or criminal, in statements made to internal affairs investigators, notaries and persons taking depositions or other testimony or any other official proceeding as defined in F.S. 837. *(Violation subject up to dismissal)*

26.2.118 Code of Ethics for Public Officers and Employees - Employees shall strictly adhere to the code of ethics for public officers and employees and shall not violate the Code of Ethics for Public Officers and Employees as set forth in Florida law and the County Merit System. *(Violation subject up to dismissal)*

26.2.96 Processing Property and Evidence - Property and evidence which have been received in connection with official duties will be processed in accordance with the provisions of Chapters 83 and 84. Department personnel shall not convert to their own use, manufacture, conceal, falsify, destroy, remove, tamper with or withhold any property or evidence held in connection with an investigation or other official action except in accordance with established procedures. *(Violation subject up to dismissal)*

26.2.34 Failure to Follow Directive or Order - Employees shall adhere to all official Directives and/or orders, and shall faithfully execute all the duties and responsibilities of their assigned position. *(Violation subject up to a 5 day suspension)*

26.2.95 Handling Monies and Property - Money or other property coming into the possession of Department personnel which does not belong to such personnel shall be delivered to the proper custodian, and a report shall be made of the transaction in accordance with the provisions of Chapters 17, 83 or 84, as applicable. *(Violation subject up to a 5 day suspension)*

and, **Volusia County Merit System Rules and Regulations 86-453 (13)**. Any conduct, on or off duty, that reflects unfavorably on the County as an employer. *This violation may be sufficient grounds for disciplinary action ranging from oral reprimand to dismissal, depending on the seriousness of the offense and other circumstances related to the situation.*

INVESTIGATIVE SUMMARY:

On September 28, 2010, Lieutenant R. Goggin received information from Sergeant Dominick Amendolare that he had been notified by Assistant State Attorney Erica Kane of dismissing felony charges of Battery on a Law Enforcement Officer in a case involving Deputy Shane Duggan. A.S.A Kane advised the defense produced a 90 minute video showing a meeting between Deputy Duggan (off duty) and the defendant (several days after her arrest) wherein Duggan returns to the defendant personal items taken or obtained at the time of her arrest. Sergeant Amendolare stated A.S.A Kane advised due to Duggan's video recorded off duty actions, the State made the decision to dismiss the felony charge as not to embarrass the Sheriff's Office and or Deputy Duggan.

On September 29, 2010, Sergeant Amendolare contacted Lieutenant Goggin by phone and advised he spoke with Deputy Duggan on the evening of September 28, 2010, in regards to the information provided to him A.S.A Kane. Sergeant Amendolare stated Deputy Duggan advised he did meet with the defendant for Five minutes to return her vehicle keys.

On September 29, 2010, a CAD printout of the call, dated 09-30-2009 at 02:29:49 hours shows Deputy Duggan being dispatched / assisting the Orange City Police Department with a crash with injuries at the location of East Minnesota Ave. and North Volusia Ave. Orange City.

The CAD report reads Duggan arrives on scene at 02:33:05, changes his location to the Saxon Hospital at 03:39:19, and then clears the call with no report at 03:57:19. (*See Tab – G*).

On September 29, 2010, Lieutenant R. Goggin obtained from the State Attorneys office a copy of a 41 page deposition transcript, given by Deputy Shane Duggan on February 04, 2010. Present for the deposition were Deputy Shane Duggan, A.S.A Erica Kane, and Defense Attorney Mr. Donald Dempsey, JR.

During his sworn statement, Deputy Duggan admits to meeting with the defendant to return personal items he had not realized were in his possession after the incident / arrest. Deputy Duggan was asked during the deposition how long the meeting lasted to which he replies “*maybe five minutes.*” Deputy Duggan states he had no contact with the defendant except for a possible hand shake. Deputy Duggan was asked if he hugged the defendant, to which he replies, “*No, not that I recall.*” Deputy Duggan is questioned in regards to text messages sent to the defendant and is asked by the defense if the text messages were “*Flirtatious*”. Deputy Duggan replies by asking the defense what the defenses definition of “*Flirtatious*” is. Deputy Duggan describes the texted messages sent by him to the defendant as, “*It wasn’t personal, it wasn’t non-personal, it was somewhere in the middle.*” Duggan describes the texts as being, “*moderate flirtation.*”

Duggan is questioned as to if he asked the defendant to wear certain outfits when she showed up to get her property, to which he replies, “*Not that I recall.*” (*See Tab – B*)

On Wednesday, September 29, 2010, Lieutenant Goggin spoke by phone with Mr. Donald B. Dempsey (Defense Attorney) for Ms. Amanda Fackler. Mr. Dempsey stated that due to criminal charges still pending on Ms. Fackler, he would be unable to allow Lieutenant Goggin to obtain a statement from her. Mr. Dempsey stated he viewed text messages sent by a phone owned / operated by Deputy Duggan. Mr. Dempsey stated the text messages were in regards to messages sent by Duggan asking his client (Fackler) to meet him (Duggan) to return her personal items and asking her to wear the same clothing she had on during the time of her arrest. Mr. Dempsey stated he could not / would not advise at this time if he had copies of text messages sent by Duggan and witnessed by him (Dempsey). Mr. Dempsey advised he did witness the texted messages which led him to have the meeting in which Duggan returned his clients personal items video recorded. Mr. Dempsey advised as an officer of the court, he would swear to having witnessed the texted messages received by his client (Fackler) and sent from the phone of Deputy Duggan.

On Thursday, September 30, 2010, Sergeant Morgan of the Internal Affairs Unit, served Deputy Shane Duggan with a Notice of Internal Investigation and provided him with a copy of the Law Enforcement Officers Bill of Rights. Deputy Duggan was re-assigned to administrative duties.

On Monday, October 04, 2010, Lieutenant Goggin obtained copies of Arrest affidavits reading that Ms. Amanda C. Fowler, W/F, was arrested by the Orange City Police Department on September 30, 2009, at 0226 hours and charged with D.U.I, D.U.I with property damage and Battery on a Law Enforcement Officer. Deputy Shane Duggan is listed as a witness to the incident. (*See Tab – H*)

On Monday, October 04, 2010, Lieutenant Goggin obtained from the States Attorneys Office, three video disks of the off duty meeting between Deputy Shane Duggan and the defendant, Ms. Amanda C. Fackler.

The videos are dated October 07, 2009, and read they begin at the approx. time of 1:16 pm. The video shows Deputy Duggan in civilian clothes, seated at a table at the location being a public park at the South East corner of Rich Ave. and Woodland Blvd. At approx. 1:19 pm, a female (Amanda Fackler) arrives, engages in a hug with Duggan and both are then seated. The video, which is approx. 88:45 minutes, shows Deputy Duggan provide Ms. Fowler with what appears to be a key ring with keys. Both Duggan and Fowler are observed to be engaged in conversation and laughter. At the conclusion of the video, Duggan and Fowler again engage in a hug and go their separate ways. (*See Tab – J*)

On Monday, October 04, 2010, Lieutenant Goggin spoke by phone with Assistant State Attorney Ms. Erica Kane. A.S.A Kane advised while preparing for Felony trial set for the week of September 27, 2010, she reviewed the three above described video disks submitted by the defense. A.S.A Kane stated after speaking with her supervisors, the State Attorneys office made the decision to dismiss the felony Battery on a Law Enforcement Officer charge. A.S.A stated they did so as to prevent embarrassment to the deputy (Duggan) and the Sheriff's Office. A.S.A Kane advised the defense was prepared to go forward with allegations that Deputy Duggan had made inappropriate comments to Ms. Fackler while at the scene, kept in his possession the defendants personal items and began contacting the defendant by text message after her arrest for personal reasons.

On Tuesday, October 05, 2010, lieutenant Goggin obtained / reviewed KRONOS time cards for Deputy S. Duggan for the pay period of 09/19/2009 to 10/02/2009. The record reads Deputy Duggan worked the date of the incident being Wednesday, September 30, 2009. Duggan also worked Thursday, October 01, 2009, Friday, October 02, 2009, Saturday, October 03, 2009, Sunday, October 04, 2009, and Monday, October 05, 2009. The record reads Deputy Duggan was off on Tuesday, September 06, 2009. Deputy Duggan while off duty meets with the defendant on the afternoon hours of September 07, 2009, and then works his assigned shift that same night. (*See Tab – I*)

On Wednesday, October 06, 2010, Lieutenant Goggin conducted a recorded interview with Sergeant Dan Genovese at the Sheriff's Dist. 6 office in Debary.

Sergeant Dan Genovese

Sergeant Genovese advised he was working the date of the incident but did not respond to the call or the hospital. Sergeant Genovese advised that he was never made aware by Deputy Duggan, or anyone, that Deputy Duggan had kept or was in possession of personal property belonging to the defendant. Sergeant Genovese advised that he was never made aware by Deputy Duggan, or anyone, that Deputy Duggan had met with the defendant while off duty and returned her personal items. (*See Complete transcript – Tab D*)

On Thursday, October 07, 2010, Lieutenant Goggin conducted a recorded interview with Sergeant Dominick Amendolare at the Sheriff's Administrative Office in Deland.

Sergeant Dominick Amendolare

Sergeant Amendolare advised he first became aware of this incident after having received a phone call from A.S.A Erica Kane on or about February 03, 2010. A.S.A Kane asked if he (Amendolare) could make Deputy Duggan available for a deposition on February 04, 2010.

Sergeant Amendolare advised while working on the early evening hours of February 04, 2010, he met with Deputy Duggan at Pettis Park in New Smyrna Beach. Deputy Duggan advised the deposition was in regards to him (Duggan) being in possession of a defendant's property after he (Duggan) assisted the Orange City Police Department with an arrest. Deputy Duggan advised Sergeant Amendolare that *"he had made a mistake by holding on to her keys until the next day and then meeting her to return the keys to him, or to her."* Duggan described the meeting as not lasting more than five minutes and he just called her up and returned the keys to her.

Sergeant Amendolare advised on September 28, 2010, he was contacted by A.S.A Erica Kane who advised the State's Attorney's Office had dismissed Felony Charges of Battery on a Law Enforcement Officer in a case due to actions involving Deputy Duggan. A.S.A Kane advised she would be sending him a video of Duggan meeting the defendant after her arrest. A.S.A Kane advised the decision to dismiss the charges were made as to not embarrass the Sheriff's Office and or Deputy Duggan.

Sergeant Amendolare advised on the evening of September 28, 2010, he spoke with Deputy Duggan in regards to the information he (Amendolare) received from the S.A.O. Sergeant Amendolare described Deputy Duggan's demeanor as non nonchalant, and advised Duggan stated, *"it was ridiculous that you know, it didn't last more than five minutes, and I just I made a mistake and I held her keys but I returned them the next day or the day after."* Sergeant Amendolare advised he has no other conversation with Duggan regarding this matter. (See Complete Transcript Tab - E)

On Tuesday, October 12, 2010, Lieutenant Goggin conducted a recorded interview with Orange City Police Officer, Heather Olszewski. The interview was conducted at the Orange City Police Department.

Heather Olszewski.

Officer Olszewski advised she was dispatched and arrived first on scene at the crash wherein the defendant (Fackler) was later arrested. Ofc. Olszewski stated at no time did she witness Deputy Duggan act or speak in an improper or unprofessional manner to the defendant (Fackler). Ofc. Olszewski advised Deputy Duggan assisted at the scene and also stood by to await the arrival of a wrecker, and then brought the tow paperwork to her (Olszewski) at the hospital.

Officer Olszewski stated she had no knowledge of Deputy Duggan having property of the defendant and advised at no time did Duggan attempt to return the defendants property that was in his possession, and or make her aware he was in possession of property belonging to the defendant.

Officer Olszewski stated at no time did Duggan contact her in regards to obtaining the defendants phone number. Officer Olszewski advised at no time did Deputy Duggan make her aware that he had met with the defendant to return her property.

Officer Olszewski advised she was contacted by the States Attorney's Office in regards to the dismissal of the Felony charges of Battery on a Law Enforcement Officer on or about September 24, 2010. Officer Olszewski advised she was informed by A.S.A Erica Kane of the video recorded meeting between Deputy Duggan and the defendant. *(See Complete transcript Tab – F)*

On Tuesday, October 12, 2010, Lieutenant Goggin conducted a phone interview with Orange City Police Officer Brian Pilarski. Ofc. Pilarski advised he responded to the scene of the crash and assisted with the crash investigation. Ofc. Pilarski advised he at no time witnessed Deputy Duggan act or speak in an improper or unprofessional manner to the defendant (Fackler). Ofc. Pilarski advised he was not informed by Deputy Duggan nor had any information of Deputy Duggan being in possession of the defendant's property until being notified by the S.A.O of the dismissal of charges against the defendant. Ofc. Pilarski advised Deputy Duggan at no time ever contacted him for the defendant's phone number. Ofc. Pilarski advised Deputy Duggan at no time made him (Pilarski) aware of meeting with the defendant to return her property.

On Monday, October 25, 2010 Lieutenant Goggin conducted a recorded interview with Deputy S. Duggan at the at the Sheriff's Administration Office, Deland, Florida. Also present was Sergeant T. Morgan, Deputy J. Vetter and Union Representative Jeff Candage.

Deputy Shane Duggan

Deputy Duggan advised he first met the defendant (Amanda Fackler) after being dispatched to a crash in Orange City on September 30, 2009. Deputy Duggan advised while on scene he assisted the Orange City Police Department with paperwork, stood by while awaiting a wrecker for the crashed vehicle, and then delivered paperwork to the arresting officer at the hospital. Duggan stated while on scene he was not alone with the defendant and made no unprofessional comments to her. Deputy Duggan advised the defendant was arrested on D.U.I charges, and he later (possible) the next day, was informed the defendant was also charged with Felony Battery on a Law Enforcement Officer.

Deputy Duggan advised at some point, possible the next day when he returned to work he found the defendants property which he described as a key ring with car / house keys and a remote door lock on his passenger seat. Duggan advised he drove to the defendants work (Half times bar) in Deland, made contact with the business's employee's and obtained the defendants phone number. Duggan advised he did so while in uniform and operating a Sheriff's vehicle, but prior to starting his shift in district 6 at 1800 Hrs. Duggan advised he provided false information during his deposition when he stated he obtained the defendants number from an officer of the Orange City Police Department.

Deputy Duggan advised he did have contact with the defendant by both texted message and phone conversation to what he estimates to be approx. 50 times prior to meeting her on October 07, 2009. Duggan advised those phone contacts were both on and off duty, and some were unprofessional in nature.

Deputy Duggan advised he at no time notified the arresting officers or agency (Orange City Police Department) to make them aware he was in possession of their defendants property, nor did he ever attempt to return the property to their agency. Deputy Duggan stated he understood he was in violation of policy as to holding onto the defendant's property. Duggan stated he at no time prior to, or during the time frame of meeting with the defendant, made a supervisor aware he was in possession of that property, making contact with or meeting with the defendant.

Deputy Duggan advised on October 07, 2009, (Seven days) after the defendant's arrest, he met with the defendant and returned her property. Deputy Duggan stated he was off duty and operated his personal vehicle to drive from his residence on the Eastside of the county to Deland, to meet with and return her property.

Deputy Duggan advised he at no time provided information to the State Attorneys Office that he was in possession of the defendants property, or he (Duggan) had been in contact with the defendant after her arrest and he (Duggan) had met with her (defendant) to return her property.

Deputy Duggan advised he provided false or misleading information during his deposition on February 04, 2010, on questions relating to the date he met with the defendant, time frame of the meeting, having physical contact with the defendant and when questioned if he hugged the defendant.

Deputy Duggan advised when he was questioned under oath during his deposition on February 04, 2010, he provided false information, however, he believed the information was accurate at the time.

Deputy Duggan stated he provided false and or misleading information to his supervisor when questioned by that supervisor. Deputy Duggan stated he advised his supervisor he met with the defendant a day or two after her arrest for five minutes to return her property. Deputy Duggan advised he provided that information because that is how he remembered it at the time. (See Tab - C)

Conclusion:

On November 02, 2010, this investigation was presented to the Sheriff and his administrative staff. After review, the Sheriff determined the violations of the above listed Department Standards Directives to be: **Sustained.**

EXHIBIT(S):

- A) Official Correspondence.
- B) Transcript of Deputy Duggan's deposition transcript.
- C) Transcript of Deputy Duggan.
- D) Transcript of Sergeant Dan Genovese.
- E) Transcript of Sergeant Dominick Amendolare
- F) Transcript of Officer Heather Olszewski.
- G) CAD printout of call
- H) Arrest Affidavit / Police report
- I) Copy of Kronos Time Card
- J) Video disks
- K) Misc. paperwork

WITNESSES:

Sergeant Dan Genovese
Volusia County Sheriff's Office

Sergeant Dominick Amendolare
Volusia County Sheriff's Office

Officer Heather Olszewski.
Orange City Police Department

Officer Brian Pilarski
Orange City Police Department

Ms. Erica Kane
States Attorney Office

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: W.T. R. Goggin DATE: 11-17-10
Lieutenant Robert Goggin
Internal Affairs

APPROVED BY: William R. Lee DATE: 12-1-10
Chief Deputy William R. Lee
SHERIFF BEN F. JOHNSON
VOLUSIA COUNTY FLORIDA