

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

REPORT OF INVESTIGATION

REPORT NUMBER: IA-12-019

PERIOD COVERED: September 17 – September 26, 2012

DATE REPORTED: October 9, 2012

SUBJECT(S) NAME: Deputy Kory Gaeta #6917

INVESTIGATING OFFICER: Lieutenant Erik Eagan #2273

BASIS FOR INVESTIGATION:

On October 9, 2012 Lieutenant Erik Eagan was briefed by Captain David Brannon at the Sheriff's weekly staff meeting regarding the status of Deputy Kory Gaeta's Performance Improvement Plan (PIP) and the recent documentation of a supervisor's inquiry conducted by Sergeant Chris Rego regarding neglect of duty and veracity allegations against Deputy Kory Gaeta. During the supervisor inquiry conducted by Sergeants Rego and Jeff McDonnell, it was determined that Deputy Gaeta had lied to both sergeants on a call on September 17, 2012. Chief Deputy Mike Coffin assigned the case for investigation by the Internal Affairs Unit. The supervisor inquiry referenced by 054M106.12 is attached and made part of this investigation. *(Complaint / Supervisor Inquiry see Tab – C)*

OFFENSE(S):

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.)*

26.2.50 Neighborhood and Domestic Disputes - Employees shall avoid official, personal involvement in neighborhood controversies, domestic or family disputes. Such disputes shall be investigated by impartial on-duty Deputies. Deputies shall not attempt to exercise authority or to make arrest in their own quarrels but shall contact a superior officer, who shall cause the matter to be investigated and action taken by impartial Deputies having no personal interest in the dispute. *(Violation subject up to a 1 day suspension.)*

26.2.107 Untruthfulness in an Official Proceeding (not under oath) - Employees shall not knowingly make false statements to a supervisor or to any official of a government agency during an official proceeding of the Department or other government agency even though such statements are not made under oath. *(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.)*

26.2.124 Compliance With Direct Order of a Superior or Competent Authority - Employees shall comply with the direct orders or instructions given by a supervisor or superior officer and shall not refuse to comply when such orders or instructions are lawful and proper. *(Violation subject up to dismissal.)*

INVESTIGATIVE SUMMARY:

On October 12, 2012 Chief Deputy Mike Coffin assigned the above-described incident to the Internal Affairs Unit for investigation. This report details the investigation conducted by Lieutenant Erik Eagan.

On October 15, 2012 Lieutenant Eagan met Deputy Kory Gaeta at his ex-wife's home on [REDACTED] in DeLand, FL and served him with his Notice of Internal Investigation. He was also given a copy of his Law Enforcement Officer's Rights. *(Notice of Internal Investigation – Official Correspondence see Tab – B)*

Sergeant Chris Rego

On October 15, 2012 Lieutenant Eagan conducted a sworn recorded interview with Sergeant Chris Rego at the District 4 – Deltona substation. The following is a summary of the interview.

Sergeant Rego told Lieutenant Eagan that while conducting a supervisor's inquiry into a citizen's complaint against Deputy Gaeta for harassment, he realized Deputy Gaeta had lied to him and Sergeant Jeff McDonnell during a call for service on September 17, 2012. According to Sergeant Rego, Deputy Gaeta had told him and Sergeant McDonnell that while transporting a victim to a suspect show-up, he observed his live-in girlfriend leaving her ex-boyfriend's house. Sergeant Rego said Deputy Gaeta was given direction not to contact the ex-boyfriend or his girlfriend for the rest of the shift.

Sergeant Rego then explained after looking into the complaint against Deputy Gaeta, he realized that Deputy Gaeta was not truthful with his account of events on September 17, 2012. Apparently, Deputy Gaeta told Sergeants Rego and McDonnell that he had seen his girlfriend leave the ex-boyfriend's home after his meal break that lasted from 2221 hours until 2319 hours.

Sergeants Rego and McDonnell called Deputy Gaeta to their office and questioned Deputy Gaeta about the facts surrounding the complaint. After interviewing the complainant (ex-boyfriend), Deputy Gaeta's girlfriend and Deputy Gaeta regarding the complaint, Sergeant Rego realized that Deputy Gaeta observed his girlfriend leaving the ex-boyfriend's home before his meal break. When challenged by Sergeant Rego, Deputy Gaeta maintained his story that the sighting occurred while transporting the burglary victim to the suspect show-up. Later in the interview, Deputy Gaeta confessed to his lie and apologized to both sergeants.

Deputy Gaeta was questioned by Sergeant Rego if he contacted Leo Simoneau (ex-boyfriend of Deputy Gaeta's live-in girlfriend) the night of the burglary incident. Deputy Gaeta told the sergeants when he went to pick up the burglary victim for the suspect show-up as ordered by Sergeant McDonnell, he stopped his patrol car a few houses away and approached two males standing in their yard. Deputy Gaeta told the sergeants that he did not shine his flashlight in Mr. Simoneau's eyes, and he asked to speak to Mr. Simoneau. Deputy Gaeta initially told the sergeants that he contacted the males to find out if they had seen anything related to the burglary incident. When challenged by Sergeants Rego and McDonnell, Deputy Gaeta admitted that he knew Mr. Simoneau, recognized his truck and knew his address. He also admitted to contacting Mr. Simoneau, while on the burglary investigation, in an effort to question Mr. Simoneau about Deputy Gaeta's girlfriend's missing engagement ring. Deputy Gaeta admitted he thought his girlfriend gave her engagement ring to Mr. Simoneau. When Mr. Simoneau refused to talk to Deputy Gaeta and told him to leave, Deputy Gaeta left and picked up the burglary victim for the suspect show-up.

Sergeant Rego believed Deputy Gaeta should have responded to the burglary in progress call that was a few blocks from his home. He said deputies are paid for their meal breaks because they are subject to call. Sergeant Rego told Lieutenant Eagan that Deputy Gaeta was neglectful for not responding to the emergency call. He also said Deputy Gaeta admitted to him that he contacted Mr. Simoneau while on a directed assignment by Sergeant McDonnell. Sergeant Rego told Lieutenant Eagan that Deputy Gaeta was not truthful with him and Sergeant McDonnell while on the burglary incident on September 17, 2012 and during questioning of the incident on September 26, 2012. *(For complete transcript see Tab – E)*

Sergeant Jeff McDonnell

On October 16, 2012 Lieutenant Eagan conducted a sworn recorded interview with Sergeant Jeff McDonnell outside his home in Palm Coast, FL. The following is a summary of the interview.

Sergeant McDonnell's interview with Lieutenant Eagan was consistent with Sergeant Rego's interview. Sergeant McDonnell had been witness to Sergeant Rego's supervisory investigation and assisted him while meeting with Deputy Gaeta and the other two witnesses. Sergeant McDonnell told Lieutenant Eagan that Deputy Gaeta had disobeyed his direction to pickup the victim of the burglary incident on Monarch Ave. by contacting Mr. Simoneau about a personal matter while on an assigned call for service.

Sergeant McDonnell also told Lieutenant Eagan that Deputy Gaeta was not truthful with him and Sergeant Rego when Deputy Gaeta told them that he had just seen his girlfriend leaving her ex-boyfriend's house. Deputy Gaeta told him, *"He had recently just saw his girlfriend or his fiancé leave her ex-boyfriend's garage, pull the car out of the garage."* Sergeant McDonnell said that Deputy Gaeta would later change the order of events when questioned by Sergeants Rego and McDonnell. Sergeant McDonnell characterized Deputy Gaeta's untruthfulness as, *"He admitted that he lied to us and that he was not truthful, completely truthful."* *(For complete transcript see Tab – F)*

Deputy Kory Gaeta

On October 18, 2012 Lieutenant Eagan and Sergeant Tom Tatum conducted a sworn recorded

interview with Deputy Kory Gaeta in the Sheriff's conference room at the DeLand Administration building in DeLand, FL. Also present were Teamsters Business Agent Bob Walker and Teamsters Representative Josh Vedder. The following is a summary of the interview.

Deputy Gaeta was questioned by investigators why he did not respond to the in-progress burglary call on Monarch Ave. on September 17, 2012, even though he was on his meal break. Deputy Gaeta had been by the Monarch Ave. address looking for his live-in girlfriend not two to three minutes before the emergency call was dispatched. Deputy Gaeta acknowledged he is paid for his meal break because he is subject to call during his meal break. Deputy Gaeta explained to investigators he never heard the dispatched burglary call for 2917 Monarch Ave. on his portable radio. He said he had his radio on, earpiece in his ear and he heard "chatter" on the radio. He told investigators he saw deputies responding to the call, but made no effort to find out what the call was about. Deputy Gaeta said he did not check his MDC or make any effort to find out what was taking place a few blocks from his home. He said he was upset because he had just seen his live-in girlfriend leave her ex-boyfriend's house on Monarch Ave. Deputy Gaeta told investigators he had gotten into an argument with his live-in girlfriend in their driveway over her vehicle keys.

On September 17, 2012 between the hours of 1953 and 2232, Deputy Gaeta appears to be stalking his live-in girlfriend. His automated vehicle locator (AVL) shows him driving by [REDACTED] address ten times. During that same time frame, Deputy Gaeta is dispatched to five calls for service; a disturbance (22D), a suspicious incident (13A), a wellbeing check/suicidal person (WBC/20S), a missing person (8) and a civil dispute (42). After each call is completed or canceled, Deputy Gaeta returns to the immediate area of [REDACTED]. He does a drive-by the address or waits down the road. Deputy Gaeta said one of the drive-bys down [REDACTED] was for an extra patrol related to an incident on East Slater Dr. However, there are no other related calls on Slater Dr. in the preceding seventeen days. He said another time he drove by the [REDACTED] address was in response to him looking for a missing juvenile from Derby Dr. These two instances do not account for the additional eight times Deputy Gaeta drove by the [REDACTED] address.

Deputy Gaeta told investigators that when he told Sergeants Rego and McDonnell about having just seen his live-in girlfriend leave an ex-boyfriend's home, he did not tell them the complete story. He admitted that he only gave them a "snapshot" of what had happened. Deputy Gaeta did admit that he misled his sergeants. *"I would say that I didn't give them all the information."* When asked by Lieutenant Eagan, "So you misled them?" Deputy Gaeta replied, "Yes." Deputy Gaeta said he did not intentionally try to mislead his sergeants; he did not want to share his personal business with them. He explained that he was upset and not thinking straight. Deputy Gaeta admitted he observed his girlfriend leave her ex-boyfriend's home while he was logged out at his home on his meal break. He also admitted to driving by the ex-boyfriend's 2900 Monarch Ave. home a couple of times on September 17, 2012. However, when questioned further if he drove by the address ten times on September 17, 2012 as documented by his assigned automated vehicle locator (AVL), Deputy Gaeta admitted to these incidents. He also admitted to driving by the [REDACTED] address twice while on his meal break. Again, his explanation was that he was not thinking straight.

Deputy Gaeta denied lying to Sergeants Rego and McDonnell that he thought Mr. Simoneau might have been witness to the burglary incident on Monarch Ave., being investigated by deputies. Deputy Gaeta told investigators he never told the sergeants he thought the two men in Mr. Simoneau's yard were witnesses. Deputy Gaeta said the sergeants asked him why he contacted Mr. Simoneau; because you thought he was a witness to the burglary? Deputy Gaeta's explanation for contacting Mr. Simoneau while on a call and on-duty was, *"I don't know, I honestly don't know. I know the ring was supposed to be at his house and it's a \$2800 engagement ring you know I got a loan for it, I put all my savings into getting that ring and I wasn't going to but when I got out of the car and I heard him, one of them, somebody that was there said something about his fiancé I just, I couldn't help myself and I said 'can I talk to you for a second' and that's when he said 'no'."* Deputy Gaeta told investigators he did not believe he violated Sergeant McDonnell's order of picking up the burglary victim for a show-up, by first stopping at Mr. Simoneau's house and contacting him about a personal matter involving his girlfriend's missing engagement ring. Deputy Gaeta said his contact with Mr. Simoneau was brief and after the encounter, he followed Sergeant McDonnell's direction with the burglary victim.

Deputy Gaeta suggested that sergeants Rego and McDonnell were lying during their testimony, about Deputy Gaeta lying to them during questioning. Deputy Gaeta maintains that he was truthful with the two sergeants. Deputy Gaeta said that he was cautious not to share his personal problems with the two sergeants because when he had in the past, his statements were used against him in his Performance Improvement Plan. When Deputy Gaeta was asked if the two sergeants were lying he responded, *"Apparently, because like I said I told them when they called me into the office they asked me what, tell us about what's going on. Tell us about this incident. And that's what I told them. And I told them the order at that point in which everything happened. The only time where I didn't tell, or wasn't completely truthful didn't give him the full details about what happened was that night when they asked me 'what's your personal crisis, what's going on'?" And I said "well while I was on Monarch I saw my fiancé leaving her ex-boyfriend's house". Aside from that, every time, when they pulled me and talked to me about I told them exactly that."*

Deputy Gaeta implied that Sergeant McDonnell had an ulterior motive for suggesting Deputy Gaeta was lying. Deputy Gaeta said he was recently told by his girlfriend, Sherrienne Dattoli, that Sergeant McDonnell had sent her a Facebook message several months ago. Deputy Gaeta said the message was something to the affect, *"If things don't work out with Kory, give me a call."*

Deputy Gaeta was questioned if he felt he violated the below listed policies regarding this investigation. These are his responses to the alleged violations:

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.)

26.2.50 Neighborhood and Domestic Disputes - Employees shall avoid official, personal involvement in neighborhood controversies, domestic or family disputes. Such disputes shall be investigated by impartial on-duty Deputies. Deputies shall not attempt to exercise authority or to make arrest in their own quarrels but shall contact a superior officer, who shall cause the matter to be investigated and action taken by impartial Deputies having no personal interest in the dispute. *(Violation subject up to a 1 day suspension.)* Yes

26.2.107 Untruthfulness in an Official Proceeding (not under oath) - Employees shall not knowingly make false statements to a supervisor or to any official of a government agency during an official proceeding of the Department or other government agency even though such statements are not made under oath. *(Violation subject up to dismissal.)* No

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.)* No

26.2.124 Compliance With Direct Order of a Superior or Competent Authority - Employees shall comply with the direct orders or instructions given by a supervisor or superior officer and shall not refuse to comply when such orders or instructions are lawful and proper. *(Violation subject up to dismissal.)* No
(For complete transcript see Tab – G)

Leo Simoneau

On October 24, 2012 Lieutenant Eagan conducted a sworn recorded interview with Leo Simoneau by phone. The following is a summary of the interview.

Mr. Simoneau is Deputy Gaeta's live-in girlfriend's ex-boyfriend and her longtime family friend. Mr. Simoneau was somewhat reluctant to speak with Lieutenant Eagan while being recorded. He expressed apprehension during the prerecorded interview and said he did not want to get the deputy in trouble; he was just concerned for his friend Ms. Dattoli and being harassed by Deputy Gaeta. Mr. Simoneau told Lieutenant Eagan that Ms. Dattoli had left her engagement ring at his home on September 17, 2012 when she came over to visit. According to Mr. Simoneau, Ms. Dattoli called him asking him to look for it. Mr. Simoneau found the ring by his kitchen sink and suspected Ms. Dattoli had removed it to wash her hands. Mr. Simoneau told Lieutenant Eagan that Ms. Dattoli told Mr. Simoneau, she would have come right back over to his house to retrieve her ring but Deputy Gaeta took her car keys from her.

Mr. Simoneau also corroborated Deputy Gaeta's explanation that Ms. Dattoli's brother was babysitting her daughter while she was visiting Mr. Simoneau at his home. He said Ms. Dattoli had one alcoholic beverage while visiting him over a one hour time period. He thought the size

of the drink was cup size and he was not sure what the alcoholic beverage was. Mr. Simoneau said Ms. Dattoli was not intoxicated when she left his home to drive home. *(For complete transcript see Tab - H)*

Sherrienne Dattoli

On October 25, 2012 Lieutenant Eagan conducted a sworn recorded interview with Sherrienne Dattoli by phone. The following is a summary of the interview.

Ms. Dattoli was Deputy Gaeta's live-in girlfriend on September 17, 2012 when the incident occurred. Ms. Dattoli told Lieutenant Eagan she was no longer dating or in a relationship with Deputy Gaeta. She said the two ended their relationship just before Deputy Gaeta moved out of her home approximately one month ago. She said the two of them had been dating since June of 2012 and they lived together for approximately one month at her home on [REDACTED], Deltona, FL.

Ms. Dattoli explained to Lieutenant Eagan that on September 17, 2012 she was supposed to attend a Tupperware party and ended up not attending. She said she stopped by her friend, Leo Simoneau's house since she had her brother babysitting her daughter at her home. Ms. Dattoli told Lieutenant Eagan she had one alcoholic beverage at Mr. Simoneau's house and she did not remember what she drank. She said she was not intoxicated. She said she was at Mr. Simoneau's home for a couple of hours from 1930-2200 hours. She also said she inadvertently left her engagement ring on Mr. Simoneau's kitchen counter next to his sink. She explained she took it off to wash her hands and forgot to put it back on.

Ms. Dattoli told Lieutenant Eagan she witnessed Deputy Gaeta drive by Mr. Simoneau's home as she was backing out of Mr. Simoneau's driveway. She said she became upset over seeing him and called her brother, who was watching her daughter. Ms. Dattoli did not drive home immediately and talked to her brother on the phone. She said her brother told her Deputy Gaeta was driving around looking for her. She told Lieutenant Eagan she was upset Deputy Gaeta was out looking for her and after approximately fifteen minutes she drove home and got into an argument with Deputy Gaeta at their home. Ms. Dattoli said the two argued because she had visited with Mr. Simoneau at his home.

Lieutenant Eagan asked Ms. Dattoli if Sergeant McDonnell had sent her a Facebook message a few months ago. She explained he sent her several messages and the contents of the messages were: *"Good morning, How are you? How are things going?"* Ms. Dattoli then said, *"...and then maybe like five messages later he decided that messaging me wasn't a good idea because he didn't want to offend Kory."* She denied that Sergeant McDonnell sent her a message, *"If things don't work out with Kory, give me a call."* She then said Sergeant McDonnell sent her a Facebook message, *"...My pictures were beautiful."* She told Lieutenant Eagan she responded to his messages and they were, *"...just friendly conversation."* She said she told Deputy Gaeta one month ago about the messages when he asked if she and Sergeant McDonnell were still Facebook friends. Ms. Dattoli was unaware if Sergeant McDonnell was on or off-duty when he sent her the Facebook messages. She also said she had deleted the messages between her and Sergeant McDonnell.

Lieutenant Eagan questioned Ms. Dattoli if she knew Deputy Gaeta had driven by Mr. Simoneau's house ten times while she was there on September 17, 2012. Ms. Dattoli responded audibly upset with the idea of Deputy Gaeta driving by Mr. Simoneau's house on-duty while she was visiting with a friend. She said, *"Oh God. That's, I'm shocked to hear that I, puts me a little bit uncomfortable. Uncomfortable. Shocked, shocked. Oh my God."* Realizing she was upset over the event, Lieutenant Eagan e-mailed Ms. Dattoli a Domestic Violence Rights and Remedies pamphlet. He also gave her the non-emergency dispatch phone number and the advice to call 9-1-1 if she believed her life may be in danger. *(For complete transcript see Tab – I)*

Sergeant Jeff McDonnell (2nd interview)

On October 29, 2012 Lieutenant Eagan conducted a second sworn recorded interview with Sergeant Jeff McDonnell at the District 4 – Deltona substation. The following is a summary of the interview.

Sergeant McDonnell admitted to Lieutenant Eagan that he sent messages to Ms. Dattoli on Facebook. He said the messages were casual conversation and he stopped when Ms. Dattoli sent some messages about her troubled relationship with Deputy Gaeta. Sergeant McDonnell said he did not want to engage in a conversation with Ms. Dattoli about her relationship with Deputy Gaeta. Sergeant McDonnell did not have the Facebook messages as they had been deleted. He did not believe he sent these messages while on-duty.

Sergeant McDonnell expressed concern for Deputy Gaeta and his personal wellbeing. He was taken aback with the idea that he was bias against Deputy Gaeta. He said he was Deputy Gaeta's biggest champion and continually mentored him. *(For complete transcript see Tab – H)*

Lieutenant Eagan conducted an AVL query on Deputy Gaeta's vehicle position after he dropped off the burglary victim after the suspect show-up. Deputy Gaeta's AVL history contradicts his explanation on line 808 and 809 of his sworn testimony, *"...then I brought the victim back to the house. And that's when I changed my, I cleared there and went straight back to the scene."* The AVL history shows Deputy Gaeta leaving the victim's home on Monarch Ave. at 2348 hours and then traveling east on Howland Bl. in the opposite direction of the suspects' location. According to AVL records and nineteen minutes later, Deputy Gaeta arrives at the suspects' location on Malcolm Dr. at 0007 hours.

Conclusion:

On November 8, 2012 this investigation was presented to the Sheriff and his administrative staff. After review, the Sheriff determined the violations of the below listed Department Standards Directives to be:

26.2.41 Negligence Associated with Safety of Persons or Property - Sustained

26.2.50 Neighborhood and Domestic Disputes - Sustained

26.2.107 Untruthfulness in an Official Proceeding (not under oath) - Sustained

26.2.118 Code of Ethics for Public Officers and Employees - Sustained

26.2.124 Compliance With Direct Order of a Superior or Competent Authority - Sustained

On November 14, 2012 Lieutenant Eagan and Investigator Jim Gabriel served Deputy Gaeta with his Notice of Intent to Terminate. On the same date Deputy Gaeta scheduled an appointment to meet with Sheriff Johnson on November 19, 2012. On November 19, 2012 Deputy Gaeta met with Sheriff Johnson for his pre-disciplinary hearing. After earnest consideration, Sheriff Johnson's decision to terminate Deputy Gaeta remains unchanged.

On November 19, 2012 Lieutenant Eagan and Investigator Gabriel served Deputy Gaeta with his Notice of Termination at his home on [REDACTED], DeLand, FL.

EXHIBIT(S):

- A. Report of Investigation
- B. Official Correspondence
- C. Complaint/Supervisor Inquiry
- D. Administration of Oath/Perjury Warning
- E. Official Transcript of Sergeant Chris Rego
- F. Official Transcript of Sergeant Jeff McDonnell
- G. Official Transcript of Deputy Kory Gaeta
- H. Official Transcript of Leo Simoneau
- I. Official Transcript of Sherrienne Dattoli
- J. Deputy Gaeta's CAD history / AVL report / Burglary CAD call
- K. Miscellaneous Documents
- L. Audio CDs

WITNESSES:

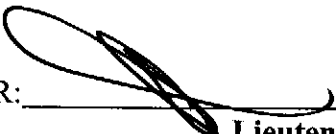
Sergeant Chris Rego
Volusia County Sheriff's Office

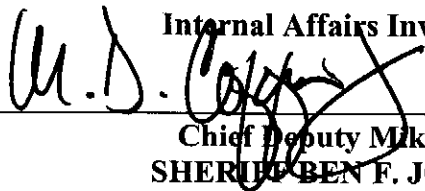
Sergeant Jeff McDonnell
Volusia County Sheriff's Office

Leo Simoneau
2900 Monarch Ave. Deltona, FL
386-717-4467

Sherrienne Dattoli
2897 Courtland Blvd. Deltona, FL
386-337-2196

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: 11-19-12
Lieutenant E. Eagan
Internal Affairs Investigator

APPROVED BY:  _____ DATE: 11/19/12
Chief Deputy Mike Coffin
SHERIFF BEN F. JOHNSON
VOLUSIA COUNTY FLORIDA