

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

REPORT OF INVESTIGATION

REPORT NUMBER: 07-001

PERIOD COVERED: December 22, 2006 to December 24, 2006

DATE REPORTED: January 4, 2007

SUBJECT(S) NAME: Investigator Brian Nardiello

INVESTIGATING OFFICER: Lieutenant Jim Morgan

BASIS FOR INVESTIGATION:

On January 4, 2007 Lieutenant Morgan was assigned this Internal Investigation by Chief Deputy William R. Lee. Chief Deputy Lee provided Lieutenant Morgan with a letter written to Edwin L. Davis and authored by Rita Martinez. The letter dated December 24, 2006 explained that Ms. Martinez was upset and no longer trusted Volusia County Sheriff's Office Investigators after witnessing the arrest of her husband, Karl Rommel. The letter detailed that Ms. Martinez is a Grand Jurist that had previously been summoned for trial and was supposed to report to court on December 28, 2006. Ms. Martinez alleged that she was not home on December 24, 2006 and returned home to find Mr. Rommel being arrested by Investigator Nardiello for obstruction. Ms. Martinez writes that Rommel did not know that Martinez was not at work and that Martinez was finishing up some last minute Christmas preparations at her mother residence. Martinez writes that her husband was arrested for allegedly lying about Martinez's location and assisting with the attempts to keep Investigator Nardiello from delivering court dates and times. Martinez writes Investigator Nardiello never delivered the message that she was supposed to appear in court on December 28, 2006 while she was present during Rommel's arrest. In the letter Martinez alleged that prior to the arrest of Mr. Rommel Investigator Nardiello harassed employees of the McDonalds Restaurant where she is employed. Martinez writes that Inv. Nardiello questioned employees of the McDonalds (Reinhart Rd. Seminole County) in attempts to locate Martinez. Ms. Martinez provided the McDonalds Manager's name, Elizabeth McFerrin, and phone number (407) 324-1404 that McFerrin could be reached to confirm this allegation.

Chief Lee also provided Lieutenant Morgan with a copy of Volusia County Sheriff's Office Incident Report #06-43059. The report is authored by Inv. Nardiello and dated December 27, 2006. In the report Inv. Nardiello writes that on December 24, 2006 he was contacted by Inv. John Eckerson who is employed by the States Attorney's Office and assigned to the Homicide Investigative Unit. Inv. Nardiello writes that Inv. Eckerson requested Nardiello to contact an uncooperative Grand Jurist that was not returning any of Inv. Eckerson's phone calls. Inv. Nardiello states in the report that Eckerson believed the Jurist, Rita Martinez, was "dodging him" and asked Nardiello to attempt contact with Martinez and advise Martinez that she was supposed to appear in Court on December 28, 2006. In the report Inv. Nardiello documents that on December 24, 2006 at 1230 hours he responded to the Martinez residence, 1195 Balfour Dr. Deltona, Fl. Inv. Nardiello writes that at the residence he made contact with a fourteen year old male who identified himself as Rita Martinez's son. Inv. Nardiello documented that he identified himself and explained his the purpose of the visit. Inv. Nardiello documented that the "son" advised that his mom (Martinez) was at work at McDonalds and his father would be home in a short time. Inv. Nardiello writes that he left the residence and began checking the local McDonalds restaurants in the Deltona, Debary, and Orange City area to see if he could locate Martinez. Inv. Nardiello advises that at the Debary McDonalds he obtained a list of Central Florida McDonalds and began calling the restaurants in attempts to locate Martinez but had negative results. Inv. Nardiello writes that he returned to the Balfour residence and made contact with Rita Martinez's husband Karl Rommel. Inv. Nardiello advised that he identified himself to Rommel and explained that he attempting to make contact with Martinez. Inv. Nardiello documents that Rommel stated his wife (Martinez) was at work and did not know when she would be home. Inv. Nardiello writes that he explained to Rommel that it was an "extreme importance" that he makes contact Martinez to notify of her Grand Jury appearance date. Inv. Nardiello advised that Rommel then explained that Martinez work at the McDonalds on Reinhart Rd. (Seminole County) and when she got off work she was going shopping. Inv. Nardiello writes that he left the residence and responded to the McDonalds restaurant on Reinhart Rd. Sanford, Fl. Inv. Nardiello writes that he met with the manager of the McDonalds who advised that Martinez was not at work and not scheduled to work on December 24, 2006. Inv. Nardiello documents that on December 24, 2006 at 1444 hours he returned to Martinez residence on Balfour Dr. Inv. Nardiello documents that he again made contact with Rommel. Inv. Nardiello advised that he again identified himself to Rommel and asked Rommel where Martinez was. Inv. Nardiello writes that Rommel again told Nardiello that Martinez was at work. Inv. Nardiello states that he explained to Rommel that he just spoke to the manager of the McDonalds and Martinez was not at work. Inv. Nardiello states that he then advised Rommel that he was "conducting an official investigation" and that Rommel's story was not adding up. Inv. Nardiello documents that he then informed Rommel that he was "committing the offense of obstruction." Inv. Nardiello writes that Rommel eventually admitted that Martinez was not at work and was inside the residence and lied to cover up and protect Martinez. Inv. Nardiello writes that Rommel was aware that the States Attorney's Office was attempting to make contact Martinez and that he heard the phone messages but Martinez did not want to answer them. Inv. Nardiello documents that Rommel realized what he did was wrong and that he should not have lied. Inv. Nardiello writes that he the arrested Rommel for Obstruction of Justice.

OFFENSE(S):

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)*

To wit: Departmental Standards Directive 1.5 Limits of Authority.

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 January 4, 2007 at 1740 hours Lieutenant Morgan made contact with Rita Martinez via phone at her place of business. Lieutenant Morgan explained to Martinez that the Sheriff's Office was in receipt of her letter addressed to Mr. Edwin Davis and that the Sheriff's Office will be conducting an Internal Investigation into the allegations made in the letter. Martinez seemed cooperative and provided Lieutenant Morgan with phone numbers for future contact.

On January 7, 2007 at 1346 hours Lieutenant Morgan made contact with Elizabeth McFerrin via phone (407) 324-1404. McFerrin is the manager of McDonalds restaurant located at 1601 Reinhart Rd. Sanford, Fl. McFerrin stated that she is the supervisor of Rita Martinez and on December 24, 2006 she had contact with Inv. Nardiello in reference to Martinez. McFerrin stated that approximately 1400 hours she came out of the bathroom and observed a white male in plain cloths behind the business counter waving a badge. McFerrin stated that the subject identified himself as Inv. Nardiello with the Volusia County Sheriff's Office and that he was looking for Rita Martinez. McFerrin advised that Inv. Nardiello had a forceful presence and was behind the business counter without being invited. McFerrin stated that she motioned for Inv. Nardiello to return to the public area of the restaurant and answered his questions McFerrin stated that she told Inv. Nardiello the Rita Martinez was not at work on that day and was not scheduled to work on that day. McFerrin stated that this situation was captured on videotape but the video has a 36-hour roll over and was recorded over and no longer available. McFerrin did state that around December 22, 2006 she received a call from an investigator looking for Martinez. McFerrin stated that she would not provide the investigator with information about Martinez because she could not verify the true identity of the person over the phone and felt it was unsafe to give out the information the investigator was asking for.

On January 7, 2007 at 1456 hours Lieutenant Morgan obtained a sworn recorded statement from Inv. John Eckerson of the States Attorney's Office, Homicide Investigative Unit.

Investigator John Eckerson

Inv. Eckerson stated that on the morning of December 24, 2006 he contacted Inv. Nardiello in reference to getting a court date and time to Grand Jurist Rita Martinez. Inv. Eckerson stated that he asked Inv. Nardiello to contact a zone unit in the District 4 (Deltona) area and have the zone go by 1195 Balfour Dr. and attempt to contact Rita Martinez. Inv. Eckerson stated that he contacted Inv. Nardiello because he knew Nardiello was familiar with the Deltona area and the Deputies that worked the area. Inv. Eckerson stated that he explained to Inv. Nardiello that Martinez was a Grand Jurist and Martinez needed to be contacted because Martinez was needed for Court on December 28, 2006. Inv. Eckerson stated that he further explained to Inv. Nardiello that he has left several messages for Martinez in the past with negative results. Inv. Eckerson stated that it was important that contact was made with Martinez but it was not imperative. Inv. Eckerson stated to Lieutenant Morgan that if he could not deliver the message to Martinez that he would not be subject disciplinary action or sanctions of the Court. Inv. Eckerson stated that Martinez was only a Jurist and she has no active warrants and is not a suspect in any case. Inv. Eckerson stated that this was an off duty day for himself and Inv. Nardiello and he did not intend for Inv. Nardiello to handle this task himself, he only wanted a Deputy to go by the residence and deliver the message to Martinez. Inv. Eckerson stated that he never provided Inv. Nardiello with any other info on Martinez, only the residence address. Inv. Eckerson advised that Inv. Nardiello never contacted him seeking further contact information Martinez. Inv. Eckerson stated that prior to asking for Inv. Nardiello's help he received this task via Edwin Davis on or around December 22, 2006. Inv. Eckerson stated that he made approximately 15 phone calls to Martinez with no return contact. Inv Eckerson stated that he did attempt to contact Martinez at work "McDonalds" and spoke to the restaurant manager. Inv. Eckerson stated that the manager was evasive and would not give him any information about Martinez.

On January 7, 2007 Lieutenant Morgan obtained a copy of Volusia County time card for Investigator Nardiello for the pay period of December 12 to December 29, 2006. This time card shows that Investigator Nardiello put in for and had approved 3 hours of overtime on December 24, 2006.

On January 7, 2007 at 1600 hours Lieutenant Morgan contacted Rita Martinez via phone. Lieutenant Morgan requested Martinez to provide date at time that she and her husband, Karl Rommel, would be available to make a statement. Ms. Martinez stated that she has retained an attorney and would consult her husband about making a statement.

On January 10, 2007 at 1431 hours Lieutenant Morgan contacted Rita Martinez via phone. Martinez stated that she and her husband have retained Attorney Julie Osborn and requested that Lieutenant Morgan arrange the taking of their statements through Ms. Osborn (386) 257-0420.

On January 10, 2007 at 1515 hours Lieutenant Morgan attempted to contact Attorney Julie Osborn with negative results. Lieutenant Morgan left Ms. Osborn a message via phone.

On January 11, 2007 at 1500 hours Lieutenant Morgan attempted to contact Attorney Julie Osborn with negative results. Lieutenant Morgan left Ms. Osborn a message via phone.

On January 12, 2007 at 0830 hours Attorney Julie Osborn contacted Lieutenant Morgan. Ms. Osborn advised that she would speak to her clients and attempt to schedule an interview. Ms Osborn advised that she would re-contact Lieutenant Morgan with the arranged date and time. (To date, January 22, 2007, Lieutenant Morgan has not been re-contacted by Ms. Osborn)

On January 22, 2007 at 1000 hours Lieutenant Morgan obtained a sworn recorded statement from Investigator Brian Nardiello. Also present during the statement was Lieutenant Jim Melady of Volusia County Sheriff's Office Internal Affairs Unit and Jeff Candage of the Teamsters Union.

Investigator Brian Nardiello

Investigator Nardiello stated that while he was assigned to the Homicide Investigative Unit he received a call on December 24, 2006 from States Attorney Investigator John Eckerson. Investigator Nardiello stated that he was not on duty at the time of the call. Investigator Nardiello stated that Investigator Eckerson requested that he contact a zone Deputy in the District 4 area and have the Deputy attempt to contact a Grand Jurist named Rita Martinez. Investigator Nardiello stated that Investigator Eckerson did not give him any other information on Martinez other than her address. Investigator Nardiello stated that Investigator Eckerson never asked him to make face-to-face contact with Martinez. Investigator Nardiello stated that Investigator Eckerson conveyed to him that numerous attempts to contact Martinez have had negative results and that a message needed to be delivered to Martinez. The message to be delivered was that Rita Martinez needs to appear in court on December 28, 2006. Investigator Nardiello stated that he took it upon himself to attempt to contact Martinez instead of asking a zone Deputy to handle the task. Investigator Nardiello advised that he drove to the Martinez residence and made contact with a white male teenager who identified himself as Ms. Martinez's son. Investigator Nardiello stated that he received information from the teenager that Ms. Martinez was at work at McDonalds Restaurant and did not know when she would return home. Investigator Nardiello stated that he left a written message with the son for Ms. Martinez to call him. Investigator Nardiello stated that he visited several local McDonalds looking for Martinez with negative results. Investigator Nardiello stated that he returned to the residence and made contact with Martinez's husband, Karl Rommel. Investigator Nardiello advised that Rommel also stated that Martinez was working at McDonalds in Sanford, Fl. and he did not know when she would return home. Investigator Nardiello stated that he left the residence and located the correct McDonalds on Reinhart Rd. in Sanford, Fl. Investigator Nardiello stated that he was told by the manager of McDonalds that Martinez was not working on that day. Investigator Nardiello stated that he did go behind the business counter without being invited. Investigator Nardiello stated he left the McDonalds and returned to the residence for a third time.

Investigator Nardiello stated that he again made contact with Rommel. Investigator Nardiello stated that he identified himself as he did in the past and was told by Rommel that Martinez was at work. Investigator Nardiello stated that he accused Rommel of lying and informed Rommel that he was obstructing an official investigation. Investigator Nardiello stated that Rommel then confessed that he had been lying and that Martinez had been home the entire time. Investigator Nardiello stated that he then placed Rommel under arrest for resisting an officer without violence. Investigator Nardiello stated that while securing Rommel Martinez did appear but he did not see her come from inside the residence. Investigator Nardiello stated that he never verbally delivered the message that she was to appear in court on December 28, 2006. Investigator Nardiello stated that he did not make contact with Martinez because he did not want to escalate an already tense situation. Investigator Nardiello stated that he observed Martinez with the hand written message that he left with the teenager earlier and surmised that the message had been delivered. Investigator Nardiello stated that at the time he thought he was conducting business in the "Official Performance Of His Duties," but now realizes that he was not investigating a crime or serving civil papers thus, not acting in an official capacity. Investigator Nardiello stated that the States Attorney's Office places great importance on contacting witnesses and he wanted to accomplish the task he had been given.

CONCLUSION:

On February 13, 2007 this Internal Investigation was presented to the Sheriff and his Staff for review. After review, the Sheriff determined that the above Standard/Directives allegations are sustained.

- EVIDENCE:**
- A) Official Correspondence.
 - B) Volusia County Sheriff's Office report # 06-43059.
 - C) A copy of a letter addressed to Edwin L. Davis, dated December 24, 2006 and authored by Rita Martinez.
 - D) Transcript of interview with Investigator John Eckerson.
 - E) Copy of Volusia County time card for Investigator Nardiello for the pay period of December 12 to December 29, 2006.
 - F) Transcript of interview with Investigator Brian Nardiello.

WITNESSES: Rita Martinez, 1195 Balfour Dr. Deltona, Fl. (386) 574-3316 or (407) 324-1404. (not interviewed)

Karl Rommel, 1195 Balfour Dr. Deltona, Fl. (386) 574-3316.
(not interviewed)

States Attorney Investigator John Eckerson, (386) 323-0130.

Elizabeth McFerrin, 1601 Reinhart Rd. Sanford, Fl. (407) 491-7303.

INVESTIGATOR: *J. J. Morgan* DATE: 02/14/07
Lieutenant Jim Morgan , LESD / Internal Affairs

APPROVED BY: *William R. Lee* DATE: 2/19/07
Chief Deputy William R. Lee
SHERIFF BEN F. JOHNSON
VOLUSIA COUNTY FLORIDA