

VOLUSIA COUNTY SHERIFF'S OFFICE INTERNAL AFFAIRS

REPORT OF INVESTIGATION

REPORT NUMBER: IA #11-001

PERIOD COVERED: January 19, 2011

DATE REPORTED: January 19, 2011

SUBJECT(S) NAME: Deputy Carl Willard ID# 2120

INVESTIGATING OFFICER: Sergeant Timothy Morgan

BASIS FOR INVESTIGATION:

On January 19, 2011, Mrs. [REDACTED] while at the Volusia County Branch Jail alleged Deputy Carl Willard inappropriately touch her during a pat down search of her person prior to transporting her to the Branch Jail. Mrs. [REDACTED] advised this occurred at the fueling station located at State Route 44 near the Volusia County Fair Grounds, on January 19, 2011, after she was arrested for Domestic Battery in Deltona, Florida.

OFFENSE (S):

26.2.129 Misdemeanor Injurious to the Department - Department personnel shall adhere to all federal, state and local laws and shall not commit any act or crime defined as a misdemeanor, first or second degree, whether chargeable or not, which brings discredit upon the Department or otherwise impairs the operation and efficiency of the Sheriff's Office and/or which is likely to impair the ability of personnel concerned to perform assigned duties. (*Violation subject 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*)

26.2.34 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:**

70.1.72 Prisoners transported alone shall be secured with handcuffs in back for any transport within Volusia County.

1.8.19 Whenever possible, searches of an arrestee will be done by a Deputy of the same sex as the arrestee. If a Deputy of the same sex is not available, an attempt shall be made to have a second Deputy present as a witness.

41.13.20 In each instance involving the transport of a prisoner, victim, witness or aided citizen of the opposite sex or juvenile in a Department vehicle, the operator shall contact the Communications Dispatcher and advise:

- Location and odometer mileage at the start of the transport;
- Intended destination;
- Odometer mileage and actual location at the end of the transport.

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 19, 2010, Chief William R. Lee assigned the above-described incident to the Internal Affairs Unit for investigation. This report details the investigation conducted by Sergeant Timothy Morgan of the Internal Affairs Unit.

On January 19, 2011, Sergeant Morgan obtained copies of the Volusia County Division of Corrections Incident Report, and supplement report detailing the events as described by Mrs. [REDACTED] involving Deputy Carl Willard. (See Tab-C)

On January 21, 2011, Lieutenant Goggin of the Internal Affairs Unit contacted Deputy C. Willard. Lieutenant Goggin served Deputy Willard with a Notice of Internal Investigation and provided him with a copy of the Law Enforcement Officer's Bill of Rights. Deputy Willard was advised that he was suspended with pay until further notice Lieutenant Goggin secured Deputy Willard's department issued weapon, gun belt, and credentials.

According to the reports while Mrs. [REDACTED] was being processed at the Volusia County Branch Jail, she advised the intake officer she was touched inappropriately by the transporting deputy prior to their arrival at the County Jail. Mrs. [REDACTED] identified the deputy as Carl Willard.

Mrs. [REDACTED] advised the booking officers after Deputy Willard obtained custody of her from the original arresting officer at the Volusia County Fair grounds. Deputy Willard took her across the street to the fuel pumps. Mrs. [REDACTED] added when they arrived at the fuel pumps the deputy who original arrested her was also there fueling his vehicle. Mrs. [REDACTED] stated after the arresting deputy

left the area. Deputy Willard asked her to step out of the vehicle and then he removed her handcuffs. Mrs. [REDACTED] advised after he removed her handcuffs, Deputy Willard touched her breast, felt her buttocks, and between her legs in an inappropriate manner. Mrs. [REDACTED] advised after he did so, he handcuffed her in the front of her body and placed her back into the transport vehicle and transported her to the Branch Jail.

On January 20, 2011, Sergeant Morgan along with Lieutenant Robert Goggin obtained a sworn recorded statement from Deputy Kory Gaeta at District IV, located in Deltona

Deputy Kory Gaeta

Deputy Kory Gaeta advised on January 19, 2011, he responded to [REDACTED] Deltona, in reference to a battery. Upon his arrival, Mrs. [REDACTED] exited the residence and demanded to be taken to jail for hitting her father. Deputy Gaeta advised after completing his investigation, and according to Mrs. [REDACTED] statements, Mrs. [REDACTED] was arrested for Battery on a person over 65 (DV). Deputy Gaeta described Mrs. [REDACTED] as uncooperative, and not in a normal state of mind. Deputy Gaeta advised if he did not arrest her, she would have been placed into protective custody, because of her emotional demeanor at the scene. Deputy Gaeta advised after determining Mrs. [REDACTED] was going to be arrested he searched, handcuffed and placed her into his vehicle. The search and the physical arrest was witness by the Sergeant and other deputy on scene. Deputy Gaeta stated Mrs. [REDACTED] was then transported to the Volusia County Fairgrounds to meet with the prisoner transport deputy. Deputy Gaeta advised when he arrived at the fairgrounds Mrs. [REDACTED] was transferred to the prisoner transport deputy (Deputy Willard) without incident.

Deputy Gaeta stated after transferring his prisoner, he preceded to the fuel pumps located on State route 44 across the street from the fairgrounds (Deland Crossings), and Deputy Willard also arrived at the fuel pumps. Deputy Gaeta advised he fueled up his vehicle spoke to Deputy Willard briefly and then left the area. Deputy Gaeta described their vehicle placement as side by side with the fuel pump between their vehicles. Deputy Gaeta advised he never observed Mrs. [REDACTED] exit the vehicle. Deputy Gaeta had no additional information to provide.

On January 20, 2011, Sergeant Morgan and Lieutenant Goggin contacted Mr. [REDACTED] who was determined to be Mrs. [REDACTED] father at the located of [REDACTED] Deltona. Upon our arrival this investigator spoke with Mr. [REDACTED] briefly just outside of the residence before being interrupted by Mrs. [REDACTED]. During our conversation, Mr. [REDACTED] advised Mrs. [REDACTED] consumes some type of medication for pain, but was not specific on what type. Mr. [REDACTED] also stated the argument which resulted in [REDACTED] arrest began on the 19th of January because of an issue between Mrs. [REDACTED] and her daughter. Mr. [REDACTED] stated Mrs. [REDACTED] gets angry when she doesn't get her pain medication. Prior to going on record to obtain an official statement from Mr. [REDACTED] as to the events which led [REDACTED] arrest, Mr. [REDACTED] was interrupted and told by both Mrs. [REDACTED] and an unidentified female (believed to be his wife) to re-enter the house.

On January 21, 2011, Sergeant Morgan obtained the Fuel Interface Log which revealed on January 19, 2011, at 10:13 hours, **(It should be noted the time captured by the fuel computers is not the correct time)** Deputy Willard who operates vehicle #162619 obtained 9.700 gallons of fuel from pump #815 located at Deland Crossing on State Route 44 across from the fairgrounds. (See Tab-I)

On January 21, 2011, Sergeant Morgan obtained a copy of Deputy Willard's CAD history for January 19, 2011, which revealed he did not call out at the fuel pumps located at the Deland Crossing. According to Deputy Willard's CAD history he arrived at the Volusia County Fair grounds at 0901 hours in reference to the transport of Mrs. [REDACTED]. At 0910 hours Deputy Willard advised central dispatch of his beginning mileage, and he was enroute to the Volusia County Branch Jail. CAD also revealed Deputy Willard arrived at the Volusia County Branch Jail at 0930 hours; however, no ending mileage was recorded. Deputy Willard cleared the call for service at 1008 hours. (See Tab-D)

On January 21, 2011, Sergeant Morgan obtained a copy of Mrs. Lisa [REDACTED] sworn statement as obtained by Investigator Graves at the Volusia County Branch Jail on January 19, 2011.

Mrs. [REDACTED]

During Mrs. [REDACTED] sworn statement, she advised Investigator Richard Graves that on January 19, 2011, she was arrested for domestic battery at her father's residence located in Deltona, and transported to the Volusia County Fairgrounds. Upon her arrival at the fairgrounds, she was removed from the arresting deputy's vehicle and placed into a second vehicle to be transported to the Volusia County Branch Jail. Mrs. [REDACTED] advised prior to their arrival at the branch jail the deputy (Later identified as Deputy Carl Willard) drove across the street from the fair grounds to the fuel pumps (later identified as the Deland Crossings). Mrs. [REDACTED] advised when they arrived at the pumps the arresting deputy was also fueling his patrol vehicle, however, after the arresting deputy left the area, Deputy Willard asked her to step out of the patrol car. Mrs. [REDACTED] advised, Deputy Willard removed her handcuffs, and told her to place her hands on the vehicle, at which time Deputy Willard began to feel her breast very hard but not like a pat down, she added "*like a fondling type feeling*". Mrs. [REDACTED] advised, he (Deputy Willard) then moved his hands down her waist slowly and she began to get "*nervous*". Mrs. [REDACTED] stated he then went down to her pelvic area and then started to squeeze her buttocks. Mrs. [REDACTED] advised she looked at him in a surprised manner, and stiffened up so he stopped. Mrs. [REDACTED] advised the total time of the pat down was approx. 10 to 30 seconds. Mrs. [REDACTED] advised after she tensed up Deputy Willard turned her around, placed the handcuffs back on her in the front, and placed her back into the vehicle.

During Mrs. [REDACTED] statement she was asked if he (Deputy Willard) removed any of her clothing, and Mrs. [REDACTED] advised he did not remove any clothing. Mrs. [REDACTED] stated all of the touching was thru her clothing, and he (Deputy Willard) never put his hands into or under her clothing. Mrs. [REDACTED] advised after being placed in the vehicle, Deputy Willard attempted to be nice to her by making small talk, but she did not speak to him on the way to the county jail. (See complete transcript Tab-E)

Investigator Graves completed a map quest of the route which was driven by Deputy Willard while Mrs. [REDACTED] was in the vehicle. According to the distance time and the times recorded by Deputy Willard this would coincide with the drive time as traveled. (TAB -I)

On January 24, 2011, this office received photo's from the county jail which revealed Mr. [REDACTED] was handcuffed in the front of her person when they arrived at the branch jail. (See Tab-H)

On January 27, 2011, Lieutenant Robert Goggin along with Sergeant Morgan obtained a sworn recorded statement from Deputy Carl Willard at the Sheriff's Administrative Office.

Deputy Carl Willard

During Deputy Carl Willard's sworn statement, he advised he was working as the transport deputy on January 19, 2011, and was dispatched to the Volusia County fairgrounds to transport a prisoner to the Volusia County Jail. Deputy Willard added he arrived at the main entrance of the fairgrounds located on State route 44, and met with the arresting deputy. He (Deputy Willard) advised he took custody of the prisoner; however, he (Deputy Willard) failed to search the prisoner. Deputy Willard could not provide this office with the reason for failing to search the prisoner upon taking custody of her. Deputy Willard advised after securing the prisoner in his vehicle, he elected to refuel his patrol vehicle at the Deland Crossing fuel pumps which was located directly across the street from the Volusia County fair grounds. Deputy Willard advised he failed to call out with a location change because of the close proximity of the fuel pumps to his original location.

Deputy Willard advised due to the weekly farmers market which takes place at the fairgrounds there was an abnormal amount of traffic on State Route 44. Deputy Willard stated while waiting for traffic to clear, Mrs. [REDACTED] began to complain about how the handcuffs were hurting her.

Deputy Willard stated when they arrived at the fuel pumps the arresting deputy (Deputy Gaeta) was also refueling his vehicle. Deputy Willard advised they spoke briefly and Deputy Gaeta left the scene prior to him (Deputy Willard) removing the prisoner from the vehicle. Deputy Willard advised because Mrs. [REDACTED] complained about the handcuffs hurting her, he had her step out of the patrol vehicle to check the handcuffs, and he noticed marks on her arms. Deputy Willard advised he removed the handcuffs and while doing so asked Mrs. [REDACTED] had she been searched. Mrs. [REDACTED] advised him no. Deputy Willard advised he conducted a search of Mrs. [REDACTED] and he described the search to this investigator as a standard search he has utilized on females during his 30 plus year career while at the Sheriff's Office. Deputy Willard advised he utilized the back of his hands except while checking Mrs. [REDACTED] front pockets. Deputy Willard was asked, why he (Deputy Willard) failed to follow policy during the search, and he replied "*all that I wanted to do was to get the job done as quickly as I could*". Deputy Willard advised that after conducting his search of Mrs. [REDACTED] person, he elected to handcuff Mrs. [REDACTED] in the front of her person, and she was placed back into the transport vehicle.

Deputy Willard stated prior to transporting Mrs. [REDACTED] across the county he provided central communications with his beginning mileage, upon leaving the Deland Crossing fueling station. Deputy Willard advised at no time did [REDACTED] make him aware she felt violated or uncomfortable by

the search of her person. He advised they engaged in conversation with each other about her arrest and they also talked about her current family problems. Deputy Willard advised talking to the prisoners while in transport was common practice for him in order to make the prisoner feel at ease. Deputy Willard advised when they arrived at the county jail he believed he attempted to provide ending mileage, but he can't be positive.

Deputy Willard stated at no time during his encounter with Mrs. [REDACTED] did he touch her inappropriately. Deputy Willard added he also did not violate the Code of Ethics for Public Officers and Employees, and the Volusia County Merit System Rules and Regulations as set forth by policy. However, he acknowledged, he failed to follow Directives or Orders as they pertain to prisoner transport, searching of females, and transporting a prisoner within the county handcuffed in the front. (See Tab-E)

On February 3, 2011, Sergeant Morgan contacted Mrs. [REDACTED] and scheduled an interview for 1400 hours on February 4, 2011.

On February 4, 2011, Mrs. [REDACTED] failed to show up for the scheduled interview. Sergeant Morgan attempted to contact [REDACTED] but the female who answered the phone advised she was not at the residence. Mrs. [REDACTED] failed to return Sergeant Morgan's call.

On February 16, 2011, Sergeant Morgan received an additional supplement completed by Investigator Graves. The supplement read Investigator Graves attempted a second follow up interview with [REDACTED] in regards to possible new and unreported allegations made by [REDACTED]. Investigator Graves was made aware that Ms. [REDACTED] was being represented by Mr. M. Politis. Investigator Graves states he was contacted by Mr. M. Politis on February 10, 2011. Mr. Politis advised he was representing Mrs. [REDACTED] and would re-contact Investigator Graves at a later date after further consultation with his client ([REDACTED]). (See Tab -D)

CONCLUSION: On February 8, 2011, this Internal Investigation was presented to the Sheriff at his Administrative Staff meeting. After review, the Sheriff determined the violation of Department Standards Directives:

26.2.129 Misdemeanor Injurious to the Department:
26.2.118 Code of Ethics for Public Officer and Employees
86-453 (13) County Merit System Rules and Regulations:
26.2.34 Failure to Follow Directives or Order

Not Sustained
Unfounded
Unfounded
Sustained

EXHIBIT(S):

A) Official Correspondence

B) Affidavit and VCSO Incident Report 11-1728 composed by Deputy Gaeta

- C) Volusia County Jail booking photo, incident report, and Supplements completed by jail personnel
- D) CAD history, supplement #11-1767 as prepared by Investigator Graves
- E) Transcripts Deputy Carl Willard
- F) Transcripts of Mrs. [REDACTED] as obtain by Investigator Richard Graves
- G) Transcripts Deputy Kory Gaeta
- H) Photographs of [REDACTED] exiting and entering the Volusia County Jail
- I) Fuel Log and Map quest route
- J) Compact Disc pictures of Volusia County Jail & Compact Disc of recorded interviews

WITNESSES:

Investigator Richard Graves
Volusia County Sheriff's Office

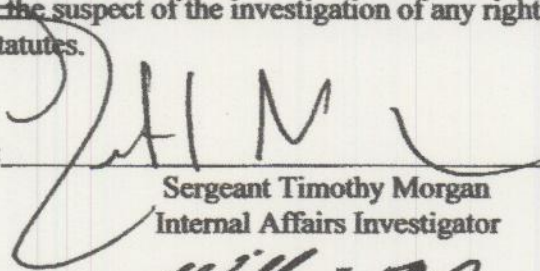
Mrs. [REDACTED]
[REDACTED] Deltona Fl

Deputy Kory Gaeta
Volusia County Sheriff Office

Deputy Carl Willard
Volusia County Sheriff Office

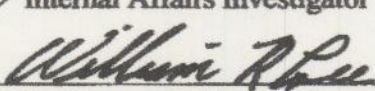
I, the undersigned, do hereby swear, under penalty of perjury, that, to the best of my personal knowledge, information, and belief, I have not knowingly or willfully deprived, or allowed another to deprive, the suspect of the investigation of any rights contained in ss. 112.532 and 112.533, Florida Statutes.

INVESTIGATOR: _____


Sergeant Timothy Morgan
Internal Affairs Investigator

DATE: 3/3/11

APPROVED BY: _____


Chief Deputy William R. Lee
SHERIFF BEN F. JOHNSON
VOLUSIA COUNTY FLORIDA

DATE: 3/3/11