



Rick Staly, Sheriff  
**FLAGLER COUNTY SHERIFF'S OFFICE**  
*"An honor to serve, a duty to protect."*

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**Internal Investigation Report**

**Internal Inquiry Incident #2017-0022**

**Sworn Employee**

**Jonathan Vitale**

**Internal Inquiry Incident #:2017-0022**

**Subject Employee:** Jonathan Vitale #558

**Division:** Detention Services

**Date of Hire:** 04/06/2011

**Probation Status (if any):** N/A

**Date of Most Recent Promotion:** N/A

**Previous Corrective Measures:**

- 06/17/2011, Written Reprimand for Untruthfulness (IA 2011-0064)
- 07/30/2011, Oral Consultation for Untruthfulness (IA 2011-0077)

**List of Witnesses:**

- N/A – allegations of subject employee were obtained from audio/video documentation

**List of Exhibits:**

1. Black and silver 16G USB storage device containing the following:
  - a. Interview of Dep. J. Vitale with FDLE
  - b. Interview of Dep. J. Vitale with Cmdr. C. Sepe (regarding Gilyard)
  - c. Interview of Dep. J. Vitale with Cmdr. C. Sepe (subject interview)
  - d. Passing of Contraband Video (note)
    - Video of CO 81: 13:29:30 – 13:32:10
    - Video of CO 79: 13:29:30 – 13:30:10
    - Video of CO 77: 13:29:30 – 13:32:10
  - e. Passing of Contraband Video (cup)
    - Video of CO 81: 13:06:27 – 13:07:50
    - Video of CO 79: 13:06:45 – 13:09:30

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## Incident and Complaint:

On 04/12/2017, Cmdr. Chris Sepe was authorized by Undersheriff J. Bisland to conduct an internal affairs investigation regarding Dep. Bradley Gilyard (IA#2017-0004). During the course of that investigation it was learned that one of the witnesses, Dep. Jonathan Vitale, had potentially committed acts which were in direct violation of Florida State Statute and/or Flagler County Sheriff's Office General Orders to wit:

- On 01/16/2017, Dep. J. Vitale was seen on video receiving a note from Inmate [REDACTED] in the laundry room then reading the note as he walked down the hallway.
- On 01/16/2017, Dep. J. Vitale was seen giving Inmate [REDACTED] a white Styrofoam cup containing an unknown liquid in the laundry room. Inmate [REDACTED] drank out of the cup and then shared it with Inmate Minnie Slater.
  - **F.S.S. 951.22: County detention facilities; contraband articles**
    - (1) It is unlawful, except through regular channels as duly authorized by the sheriff or officer in charge, to introduce into or possess upon the grounds of any county detention facility as defined in s. 951.23 or to give to or receive from any inmate of any such facility wherever said inmate is located at the time or to take or to attempt to take or send therefrom any of the following articles which are hereby declared to be contraband for the purposes of this act, to wit: Any written or recorded communication; any currency or coin; any article of food or clothing; any tobacco products as defined in s. 210.25(12); any cigarette as defined in s. 210.01(1); any cigar; any intoxicating beverage or beverage which causes or may cause an intoxicating effect; any narcotic, hypnotic, or excitative drug or drug of any kind or nature, including nasal inhalators, sleeping pills, barbiturates, and controlled substances as defined in s. 893.02(4); any firearm or any instrumentality customarily used or which is intended to be used as a dangerous weapon; and any instrumentality of any nature that may be or is intended to be used as an aid in effecting or attempting to effect an escape from a county facility.
    - (2) Whoever violates subsection (1) shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
  - **Florida Model Jail Standards: CHAPTER 14 - CONTRABAND**
    - 14.1 No person shall introduce or cause to be introduced into or upon the property of a detention facility, or give to any inmate, any article of contraband; or give to any inmate anything which is not specifically authorized by written detention facility directive, or which has not been specifically authorized by the Officer-in-Charge or designee. The Officer-in-Charge or designee will establish and provided a list of articles or items which inmates may have in their possession. All other items in the possession of an inmate shall be considered contraband.

- On 04/19/2017, Cmdr. Chris Sepe was interviewing Dep. J. Vitale as a witness to Dep. B. Gilyard's investigation and it was revealed that on the morning of 01/19/2017, Dep. Vitale communicated with Dep. B. Gilyard that the Florida Department of Law Enforcement was at the Flagler County Inmate Facility and were there to see him (Dep. B. Gilyard). This action took the element of surprise away from the FDLE and could be considered obstruction of justice or legally defined as resisting an officer without violence.
  - **F.S.S. 843.02 Resisting officer without violence to his or her person.**  
Whoever shall resist, obstruct, or oppose any officer as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9); member of the Florida Commission on Offender Review or any administrative aide or supervisor employed by the commission; county probation officer; parole and probation supervisor; personnel or representative of the Department of Law Enforcement; or other person legally authorized to execute process in the execution of legal process or in the lawful execution of any legal duty, without offering or doing violence to the person of the officer, shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.
  
- On 01/20/2017 Special Agents Prendergast and Sammons with the Florida Department of Law Enforcement interviewed Dep. J. Vitale as a witness regarding the criminal investigation of Dep. B. Gilyard. Dep. J. Vitale was being dishonest with the Agents about whether he gave Dep. B. Gilyard advanced notice that FDLE was on scene. Once FDLE Agents gave Dep. J. Vitale and opportunity to clarify, he was then forthcoming about his involvement. This dishonesty is a potential violation of Florida Law and Flagler County Sheriff's Office General Order 020 Standards of Conduct.
  - **F.S.S. 837.02 Perjury in official proceedings**  
(1) Except as provided in subsection (2), whoever makes a false statement, which he or she does not believe to be true, under oath in an official proceeding in regard to any material matter, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
  - **F.C.S.O. General Order 020 Standard of Conduct**  
III. Procedure:  
A. There are ten (10) categories that make up this general order with ten being the most severe. The Sheriff and designee(s) reserve the unilateral right to promulgate, amend or delete policies and procedures.  
1. Category Ten Violations:  
a. Truthfulness:  
Personnel shall truthfully relay all information and answer all questions related to their employment with the agency, off-duty employment, volunteer activities with the agency, or questions otherwise related to Sheriff's Office operations, that are asked by, or provided to the Sheriff, the Sheriff's designee, or a superior officer. Personnel shall truthfully answer any questions during any legal proceeding, or otherwise under oath.

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Cmdr. Chris Sepe has recommended that this matter be referred to the Professional Standards Unit for further internal investigation.

## **Investigation:**

### **Statement of Deputy Jonathan Vitale taken by Cmdr. Chris Sepe**

On Wednesday May 3<sup>rd</sup>, at 7:30pm Cmdr. Chris Sepe conducted a sworn interview with Deputy Jonathan Vitale at the Flagler County Sheriff's Office Inmate Facility. Dep. Vitale was presented an appropriate amount of time to review all exhibits and interviews with his Police Benevolent Association representation (Greg Forehand) prior to any questioning by Cmdr. Sepe.

The full interview is available in the Internal Affairs case file. Below are highlights pertaining to this investigation:

- Dep. Vitale read FCSO IA-008 Garrity Notice and signed it. Dep. Vitale was then read FCSO IA-014 Template for Interview of Subject Employee.
- Cmdr. Sepe advised Dep. Vitale that according to the security cameras, Dep. Vitale was seen receiving what appeared to be a folded piece of paper from inmate [REDACTED] who was working in the laundry room. Dep. Stephanie DaSaro came walking down the hall and inmate [REDACTED] started walking towards the doorway of the laundry room and hallway. Once inmate [REDACTED] saw that it was Dep. DaSaro, inmate [REDACTED] turned around and went back to work in the laundry room. Approximately 30 seconds later Dep. Vitale started walking down the hallway. Inmate [REDACTED] motioned towards the doorway of the laundry room and hallway and noticed Dep. Vitale. Something was said as the camera showed inmate [REDACTED] mouth moving and then inmate [REDACTED] took a piece of paper which was concealed inside of her white tee shirt and handed it to Dep. Vitale.
  - The video clearly shows that inmate [REDACTED] disregarded Dep. DaSaro as she passed by the laundry room because the note was specifically for Dep. Vitale.
- Dep. Vitale immediately put the note into his left cargo pocket of his pants. Shortly after that, Dep. Vitale walked down the hall and stopped to read the note. It took approximately 1 minute and 15 seconds for Dep. Vitale to read the note before he folded it back up and put it back in the same left cargo pocket of his pants. Cmdr. Sepe asked Dep. Vitale if he in fact received contraband, specifically a note/written communication from inmate [REDACTED] and Dep. Vitale replied, "Yes".
- Cmdr. Sepe asked Dep. Vitale what was on the note and he answered, "*I don't recall*".
- Cmdr. Sepe advised Dep. Vitale that he took approximately 75 seconds to read the note so it should have had some content in it. Cmdr. Sepe asked again if Dep. Vitale had any idea what may have been on that note and Dep. Vitale replied, "*No sir*".
- Cmdr. Sepe asked Dep. Vitale if he often passed notes with inmates and Dep. Vitale said, "*I often receive paper from inmates*".

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- Dep. Vitale admits to remembering the incident after watching the video but doesn't remember what was on the piece of paper he received.
- Cmdr. Sepe then mentioned the second incident involving contraband. The video clearly shows Dep. Vitale exiting the Supervisor's Office holding a white Styrofoam cup. Dep. Vitale then walks to the doorway of the laundry room and stands in the hall just outside of it. The video shows Dep. Vitale give the cup of unknown substance to inmate [REDACTED]. Cmdr. Sepe asked Dep. Vitale in he in fact gave contraband, specifically a white Styrofoam cup to inmate [REDACTED] and Dep. Vitale replied, *"I came out of the supervisor's office with a cup of sweat tea, I was standing there talking to them (inmates [REDACTED] and Slater) and they asked what it was. I told them it was sweat tea and one of them, I think Slater said I want some...I said split it between the two of you"*.
- Cmdr. Sepe asked Dep. Vitale if this was something that happened on a regular basis and Dep. Vitale replied, *"Yes"*. Dep. Vitale advised that trustees regularly get extra food or drink from line deputies up to administration.
- Cmdr. Sepe then spoke to Dep. Vitale regarding the interview that Cmdr. Sepe conducted with Dep. Vitale during the investigation of Dep. B. Gilyard. Cmdr. Sepe established that Dep. Vitale admitted to sending a text to Dep. Gilyard and then speaking to him on the phone the morning of 01/20/17 (the morning FDLE was at the inmate facility conducting their criminal investigation).
- Dep. Vitale confirmed the above statement about sending the text by answering, *"Yes"* when asked about it.
- Dep. Vitale also admitted to telling Dep. Gilyard on the phone that FDLE was at the Inmate Facility and they were there for him (Gilyard). This took the element of surprise away from agents as they were conducting a criminal investigation.
- Cmdr. Sepe asked Dep. Vitale if he regretted giving Dep. Gilyard a "heads up" that morning he replied, *"Yes"*.
- Cmdr. Sepe verified with Dep. Vitale specific facts regarding his interview with FDLE to wit:
  - Cmdr. Sepe talked with Dep. Vitale regarding his interview with FDLE and Cmdr. Sepe said, *"At first you were not 100% truthful"* and Dep. Vitale responded, *"Correct"*.
  - During Dep. Vitale's interview with FDLE he admitted to being dishonest about whether or not he contacted Dep. B. Gilyard to give him a "heads up" the morning of 01/20/17. Dep. Vitale originally denied the text and content of the phone call to Dep. Gilyard but then admitted it to the FDLE agents. Dep. Vitale changed his mind once the FDLE supervisor advised Dep. Vitale that they already had information that was different from Dep. Vitale's statements.
- Cmdr. Sepe asked Dep. Vitale, *"Do you see anything wrong with the allegations we are talking about"* and Dep. Vitale replied, *"Yes"*.
- Dep. Vitale stated for the record that after reflecting about the above allegations, he made, *"A few mindless bad choices"*.

The interview was concluded at 7:57pm.

**Discussion:** The Flagler County Sheriff's Office had received the voluntary resignation of Dep. Jonathan Vitale prior to any discipline being awarded.

**Findings:**

This investigation has **sustained** the following General Order violations:

**Flagler County Sheriff's Office General Order 020 – Standards of Conduct III. (A) 2: Category Nine Violations:**

**(f) Unbecoming Conduct:**

Personnel shall conduct themselves at all times, both on and off duty, in such manner as to reflect most favorably on the FCSO. This includes, but is not limited to, electronic communications on social media (e.g., Facebook, Twitter, Myspace, etc.) and internet sites. Conduct unbecoming shall include that which brings the FCSO into disrepute or reflects discredit upon the personnel as a member of the FCSO, or that which impairs the operation or efficiency of the FCSO or personnel.

**Deputy Action:** The Florida Department of Law Enforcement was on scene at the Flagler County Sheriff's Office Inmate Facility investigating a criminal complaint against Dep. Bradley Gilyard on 01/20/2017. FDLE investigators had intentions of greeting Dep. Gilyard as he arrived for work and utilizing the element of surprise as an investigative tactic for their interview. Dep. Vitale eliminated the element of surprise by advising Dep. Gilyard that FDLE was on scene and wanting to speak with him. The communication was conducted through text and talking on the phone while Dep. Gilyard was on his way into work.

In addition, Dep. Vitale gave misleading answers to investigators during his interview with FDLE regarding the criminal investigation of Dep. Bradley Gilyard. Dep. Vitale eventually clarified his answers and was forthcoming in his interview with FDLE.

**Disciplinary Action:** According to Flagler County Sheriff's Office General Order 019 – Discipline, Category 9 Violations carry a penalty of "Includes all ranges of discipline, from written reprimands up to and including termination".

**To be Completed by the Investigating Supervisor or Official:**

"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 subject of the investigation of any rights contained in ss. 112.532 and 112.533, Florida Statutes.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Sworn to and subscribed before me, the undersigned, this        day,        month,  
year.

\_\_\_\_\_  
Notary

\_\_\_\_\_  
Reviewing Supervisor Printed Name

\_\_\_\_\_  
Date

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Signature of Reviewing Supervisor