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11-15-16

IA Case # 16-00410  
On-Duty

**Subject: Summation**

**To: Director M.E. Cook**

**From: Police Lieutenant M.E. Dorner #7360**

**Reference: Failure to Conform to Work Standards**

**Complainant: In-House Complaint/ Assistant Chief M. Nemeth**

**Member: Police Officer M.T. Borgert #6520, Officer F. Camacho #68469**

**Summary of complaint:**

On 07-03-16 at 0421, a single vehicle traffic crash was reported at Beach Blvd and Southside Blvd. (CCR #16-431580) The initial information reported to the dispatcher stated that an Impala traveled across the wrong side of the road and was in a retention pond. Officer F. Camacho #68469 was dispatched to the crash as the primary investigating officer. Due to the circumstances related to the crash and the driver's action of sleeping and having to be awakened, the officer requested the assistance of a more experienced D.U.I. officer. Officer M.T. Borgert #6520 responded to the scene and conducted an assessment of the driver. At the conclusion of the investigation, the driver was not arrested or cited for his involvement in the traffic crash. On 07-06-16, a review of the handling of the traffic crash investigation was requested by Sheriff M. Williams.

**Investigators note: Upon receiving this complaint, I conducted a review of the CAD for all officers who responded to the crash located at Beach Blvd. and Southside Blvd. Officers associated with this incident are as follows: Officer F. Camacho #68469 and Officer L. Rini #71289 were dispatched at 04:25 a.m. Officer Camacho arrived at 04:27 a.m. and Officer Rini**

arrived at 04:32 a.m. Sgt. J. Yarbrough #65866 was not dispatched; however he arrived at the call at 04:28 a.m. and cleared from the call at 04:34 a.m. Officer M. Borgert #6520 was requested to respond to the call at 05:12 a.m. and arrived at 05:20 a.m. Officer Borgert cleared from the call at 05:59 a.m.

**Interviews:**

**Witness** – Denard Xavier Robinson (B/M 09/22/90 1421 SW 5TH Terrace, Deerfield Beach Fl. 33441 Ph. (904) 353-0211).

On 07/22/16 at 1100, Lieutenant J.E. Judge #7337 conducted an interview with Denard Robinson at his attorneys office located at 101 E. Adams St. Present for the interview was Attorney Hank Coxe and Attorney Brian Coughlin who were representing Mr. Robinson's interest. The witness was placed under oath and signed a sworn affidavit. This interview was audio recorded by both Lt. Judge and Mr. Coxe.

Lt. Judge began the interview by asking the witness, Mr. Denard Robinson, if he remembered the details of what occurred in the early morning hours of July 3, 2016. Mr. Robinson replied that he did, and Lt. Judge asked him to elaborate. Mr. Robinson stated that on the previous evening he had gone out with friends and that they used an Uber service in lieu of anyone driving. He added that he did not consume any alcoholic beverages that evening. He went on to say that after they returned home that he and a female friend decided to go back out to a local Hookah Bar; however they later discovered it was closed. Mr. Robinson stated that he decided to return home at approximately 0400.

The witness stated that he was very tired due to the late hour and he accidentally veered off of the roadway on Beach Blvd. just past Southside Blvd. Mr. Robinson surmised that he must have fallen asleep briefly. He added that he remembers two officers from the Jacksonville Sheriff's Office responded; however he could not remember either of the officers' names or descriptions. Lt. Judge asked if he could remember what the officers initially asked him, and he stated they both asked him several times if he had been drinking alcohol beverages or taking pills of any kind. The witness told Lt. Judge that one of the officers checked his eyes, and asked him if he "wanted to blow". Lt. Judge asked what he replied to the request to "blow" and Mr.

Robinson told him that he replied "No". Mr. Robinson continued by saying that a third officer arrived and again asked him if he would be willing to blow. He stated that he indicated he did not wish to "blow".

Next, Lieutenant Judge asked Mr. Robinson if he could describe which officers asked what, or if he could identify any of them by name. He replied that he couldn't remember which officers said what, and that he did not pay attention to their name tags.

Mr. Robinson stated that rescue responded and checked his vitals and left the scene a short time later. Lieutenant Judge questioned him as to whether or not the officers knew who he was, given the fact that he is a professional athlete. Mr. Robinson answered that he does not believe the officers knew, but that they later figured out that he was an NFL football player. Lieutenant Judge asked him how they figured it out, and Mr. Robinson elaborated that while sitting in the back of a police cruiser he saw the passenger officer google his name on the laptop. He stated the laptop screen was clearly visible to him and that he saw his name and player information on the screen. Lieutenant Judge inquired as to whether or not Mr. Robinson feels like he received any special treatment due to his status as an NFL player. Mr. Robinson replied that he did not feel as if he was treated any differently because he is a professional athlete, and added that he feels that the officers were actually very hard on him. Lieutenant Judge asked Mr. Robinson if, at any time, any of the police officers that were present asked him for a picture, autograph, or any favors of any kind. He replied that none of the officers asked him for anything, nor did they ask him any questions about his status as an athlete.

**Witness-** Sergeant Jonathan Yarbrough #65866 (W/M, 9501 Arlington Expressway Jax, FL 32225)

On 08-07-16, I conducted an interview with Sgt. Yarbrough at the Zone 2 Substation during his normally assigned hours. The witness was placed under oath and signed a sworn affidavit.

I asked Sergeant Yarbrough if he was working on the morning of the traffic crash and he replied in the affirmative. Sergeant Yarbrough was asked to tell me what he recalled about the incident and he explained that he was traveling east on Beach Blvd. when he observed police activity nearby. (Beach Blvd. is the boundary separator

for Zone 2 and Zone 3.) Sergeant Yarbrough stated that he stopped to assist the officers on scene and observed a vehicle partially in the water and two officers speaking with the occupants. He described the occupants of the vehicle as a black male driver and a black female passenger.

He recalls hearing one of the officers instructing the driver of the vehicle not to open the driver side door and it appeared that the driver was not immediately responding to commands due to him being asleep. Sergeant Yarbrough stated that he did not recall which officer he told, but he told an officer to remove the keys from the ignition to prevent the vehicle from being driven forward any further. He stated that he assisted by walking with the driver of the vehicle up the embankment to be attended to by the Jacksonville Fire and Rescue unit that had arrived on scene. This concluded Sergeant Yarbrough's involvement on scene.

Sergeant Yarbrough was asked to clarify the actual placement of the vehicle and whether or not it was in the water. Sergeant Yarbrough responded that from his viewpoint, the rear of the vehicle was slightly elevated and the vehicle was at an angle and the driver's door was "in the water" to the point that if the driver's door was opened, water would have entered the vehicle. Sergeant Yarbrough was asked if he was aware of the identity of the driver and he replied that he did not have any knowledge of his identity at the scene. He stated that he later learned through the media that it involved an employee of the Jacksonville Jaguars. This concluded the interview.

Investigators Note: Sergeant Yarbrough was on scene for approximately six minutes according the CAD.

**Witness-** Sergeant. B. Shore #5869 (W/M, 7100 Powers Ave. Jax. FL 32217)

On 08-09-16, I conducted an interview with Sgt. B. Shore at the Zone 3 Substation during his normally assigned hours. The witness was placed under oath and signed a sworn affidavit. I asked Sgt. Shore if he was working on the morning of 07-03-16 and if he recalled the traffic crash under review. Sgt. Shore replied in the affirmative.

Sgt. Shore stated that he was working as the S.I.C. (Sergeant In Charge) on the morning of the crash when he was called by Officer Camacho in reference to the crash. He stated that Officer Camacho informed him that the crash involved a Jacksonville

Jaguars player and due to the potential for it to garner media attention, he was uncomfortable with his abilities to perform a D.U.I. investigation. Officer Camacho requested Sgt. Shore to respond and assist him with the investigation. Sgt. Shore stated that he was in the midst of completing I.O.D. (Injury On Duty) paperwork and was enroute to the substation to have the paperwork faxed before the end of shift. Sgt. Shore stated that due to the hour, he noticed that the next watch (watch 1) was checking on and recommended that Officer Camacho contact Officer M. Borgert who is a previous D.U.I. officer to assist him.

Sgt. Shore stated that Officer Camacho did not give him any of the specifics as to why he thought the driver of the vehicle was impaired but wanted someone with more experience with D.U.I.'s to make sure the driver was not impaired. When asked further why he recommended Officer Borgert, he stated that he checked E.I.S. and confirmed that Officer Borgert was scheduled to work that morning. This concluded the interview.

**Witness-** Officer L.M. Rini #71289 (W/M, 7100 Powers Ave. Jax. Fl. 32217)

On 08-08-16, I conducted an interview with Officer L. Rini at the Zone 3 Substation during his normally assigned work hours. The witness was placed under oath and signed a sworn affidavit. I asked Officer Rini if he was working on the morning of 07-03-16 and if he recalled the traffic crash that occurred. Officer Rini replied in the affirmative.

Officer Rini stated that he was dispatched to a vehicle crash that morning as a backup unit to Officer Camacho. He stated that when he arrived on scene, he observed Officer Camacho and his recruit (He did not know the recruits name or I.D.) and Jax Fire and Rescue already on scene. He observed that all of the occupants were already out of the vehicle and were being "checked out" by Rescue. He stated that he observed the vehicle's driver side partially in the retention pond. When asked to elaborate on the vehicle's position, he clarified that the front driver's wheel and the front bumper were partially submerged and the vehicle was at an angle. He stated that the vehicle was not sinking and was only partially in the water. He stated that he did not question the driver on a one on one basis, but he overheard the driver state repeatedly that the car was an "Uber" car, referring to the Uber Taxi service and was adamant that he was not driving

the vehicle. He stated that he also overheard the female passenger stating "we fell asleep; it's been a long day" when they were being questioned by Officer Camacho.

Officer Rini stated that due to Officer Camacho being the primary officer and the fact that he had a recruit officer, he stayed to the side and offered assistance by walking the possible path the vehicle took in an attempt to locate any skid marks or damage to the curb. Officer Rini stated that Officer Camacho contacted the assigned P.I.C. Scott Hayes (Patrolman In Charge) for guidance and was told that a D.U.I. investigation should be conducted. Officer Rini stated that he was uncomfortable conducting a D.U.I. investigation due to him not smelling any alcoholic beverages or observing any indicators of alcohol impairment so a concern of drug impairment was considered.

Officer Rini stated that neither he nor Officer Camacho are D.R.E. (Drug Recognition Expert) certified and P.I.C. Hayes recommended contacting Officer M. Borgert and he arrived on scene after he completed his roll call. Officer Rini stated that he stood back and observed Officer Borgert from a distance and observed him speak to the passenger and the driver of the vehicle who was placed in the backseat of Officer Camacho's patrol vehicle. He stated that he completed the tow slip and a signature form for the vehicle. He stated while inspecting the vehicle, he did not see anything in the vehicle except for a set of keys. He stated that he did not see any drugs or alcoholic beverages or any open containers in the vehicle.

Officer Rini was asked when he became aware the involved driver was a Jacksonville Jaguar and he replied that he overheard a "Fireman" point out the fact. Officer Rini stated that the driver's demeanor was polite and cooperative but he appeared "on edge". When asked whether or not through his interactions with the driver of the vehicle he suspected that the driver was under the influence, Officer Rini replied that he did not. He stated that he discussed it with Officer Camacho and he was told by him that he could smell a slight odor. Officer Rini clarified that he was not close to the driver and he only spoke to him in the open air near the fire department personnel. Officer Rini further stated that the driver appeared steady on his feet and he observed him walking unassisted while speaking on the phone to a woman he believed was the driver's girlfriend.

When asked about when the driver was placed in the backseat of a patrol vehicle, he stated that it was after Fire/Rescue personnel attended to him and after Officer Camacho requested assistance from Officer Borgert. He stated that he remained in the backseat of the vehicle until arrival of Officer Borgert and the beginning of Officer Borgert's D.U.I. investigation. He stated that he did not discuss any enforcement action to be taken against the driver of the vehicle for his involvement in the crash. Officer Rini stated that he has received D.U.I. training in the police academy and has conducted D.U.I. investigations previously with another police department he was formerly employed by, but he was not comfortable doing an investigation that may or may not have involved the use of drugs. When asked his opinion if he would have asked for a D.U.I. investigation if the traffic crash did not involve a member of the Jaguars, he replied that he would have. Officer Rini could not recall whether the tow truck driver took a photograph of the crash or when he may have taken it. This concluded the interview.

**Witness- Officer S. D Hayes #6739 (W/M, 7100 Powers Ave. Jax. Fl. 32217)**

On 08-10-16, I conducted an interview with Officer S.D Hayes at the Zone 3 Substation during his normally assigned work hours. The witness was placed under oath and signed a sworn affidavit. I asked Officer Hayes if he was working on the morning of 07-03-16 and if he recalled the traffic crash that occurred that morning. Officer Hayes replied in the affirmative and stated that he was working as the squad's P.I.C. (Patrolman In Charge) on that morning.

When asked his involvement with the traffic crash investigation, Officer Hayes replied that he received a phone call from Officer Camacho in reference to a vehicle that crashed into a retention pond and requested help with the D.U.I. investigation. When asked what was told to him about the crash, Officer Hayes stated that he was told the driver had fallen asleep and had been initially hard to wake up. Officer Hayes stated that he was not told about any other indicators associated with the crash, but was told that it involved Denard Robinson. Officer Hayes recognized the name of the driver and stated that he was unsure of the purpose for telling him that a Jaguars football player was involved in the crash, but it wasn't done so in a bragging or mean spirited way but

took it to mean that Officer Camacho recognized that the crash needed to be handled properly due to the potential scrutiny.

Officer Hayes stated that he contacted Sergeant B. Shore and he was the one who suggested Officer M. Borgert and made arrangements for him to respond. Officer Hayes stated that he approved the traffic crash report that morning but failed to complete a Noteworthy Incident report or inform his chain of command about the incident. Officer Hayes stated that he assumed the morning shift was taking over the investigation and recognized after receiving the report that he should have completed the appropriate notifications but failed to do so. This concluded the interview.

**Witness-** J.F.R.D. Lt. Eric Proswimmer (W/M 9200 Hogan Rd. Jacksonville FL. 32216)

On 08-19-16, I conducted an interview with Lt. E. Proswimmer at J.F.R.D. Fire Station #28 during his normally assigned work hours. The witness was placed under oath and signed a sworn affidavit. Lt. E. Proswimmer confirmed that he was working on the morning of 07-03-16 and stated that he remembered responding to the crash.

He stated that he remembers receiving the call and hurrying to the scene due to it potentially involving a submerged vehicle. He stated that upon arriving on scene he observed the vehicle was not in the pond but the driver's front tire was approximately halfway in the water. He recalled seeing a female sitting on the embankment and two officers at the vehicles passenger side door coaxing the driver out of the vehicle.

Lt. E. Proswimmer stated that he and other Fire/Rescue personnel attended to both occupants and cleared them medically as having no injuries. When asked if he was aware who the driver of the vehicle was, he stated "Yes", he recognized him but did not immediately disclose or discuss it with anyone on scene due to it being irrelevant.

He stated that the driver was responsive to all of his medical assessment questions and was able to answer them appropriately. While conducting his medical assessment, Lt. E. Proswimmer stated that he heard an officer asking the driver for his name and wrote it down. He stated that the officer returned shortly after and asked the driver "What is your real name?" and Lt. E. Proswimmer stated that he confirmed to the officer that the driver was in fact giving him his real name and the officer stated that the

drivers name was not appearing "in his computer". Lt. E. Proswimmer stated that he assisted the officer with the driver's middle name and his information appeared in the computer.

When asked his opinion about whether or not the driver in this incident was impaired, Lt. E. Proswimmer stated that he has observed a lot of drunken people during his career and he did not smell any alcoholic beverages or marijuana, no slurring of speech and his body moved normally. He further referred to the passenger in the vehicle as "Straight as an arrow" and stated that in his opinion, he did not believe any alcohol was involved in the crash. This concluded the interview.

**Witness-** J.F.R.D. Chief Charles Drysdale (W/M 9200 Hogan Rd. Jacksonville Fl. 32216)

On 08-19-16, I conducted an interview with Chief C. Drysdale at J.F.R.D. Fire Station #28 during his normally assigned work hours. The witness was placed under oath and signed a sworn affidavit. Chief Drysdale recalled that he was on duty on 07-03-16 and remembered responding to the traffic crash under review.

Chief Drysdale stated that he heard the call dispatched and volunteered to respond to the scene due to the vehicle being reported as being in the retention pond. Chief Drysdale stated that when he arrived on scene he observed that the vehicle was not in the retention pond, but was on the edge of the pond on an embankment. He stated that he observed a female being assessed by rescue personnel and Lt. Proswimmer speaking with an adult male and J.S.O. officers. He observed that the male was standing and speaking and from what he observed, not injured. He stated that he clarified with Lt. Proswimmer that no individuals were in fact in the water and determined that he was not needed on scene and checked back from the call.

He stated that he did not recognize the driver of the vehicle as a professional athlete and did not learn as much until Lt. Proswimmer informed him. Chief Drysdale did not speak with any of the officers on scene and when asked, he stated that it appeared that the crash was being handled as any other crash would be handled. This concluded the interview.

**Witness-** J.F.R.D. Captain Daniel Guthrie (W/M 9200 Hogan Rd. Jacksonville FI 32216)

On 08-19-16, I conducted an interview with Captain D. Guthrie at J.F.R.D. Fire Station #28 during his normally assigned work hours. The witness was placed under oath and signed a sworn affidavit. Captain Guthrie confirmed that he was working on 07-03-16 and recalled the traffic crash under review.

Captain Guthrie stated that he arrived on scene after the initial response due to the crash occurring outside of his normally assigned territory. He recalled seeing Chief Drysdale as he arrived and stated that he was leaving the scene due to the crash not being serious in nature. He remembered seeing the female passenger being attended to and described the vehicle as being "nearly "in the water and all occupants out of the car. When asked to clarify the placement of the vehicle, Captain Guthrie stated that the vehicle was angled on the embankment and the driver side tire was "barely" touching the water.

Captain Guthrie stated that his assessment of the driver was that he did not appear to have any injuries and described the driver as alert and oriented and believed that the driver was not impaired. Captain Guthrie described that he did not detect an odor of alcoholic beverage and the driver was walking around without stumbling. Captain Guthrie stated that he immediately recognized the driver upon approaching him on scene. He stated that he may have mentioned that fact to the other fireman working directly with him. He stated that he did not discuss the identity of the driver with any JSO officers on scene and did not recall hearing any of them discuss his identity. At the conclusion of his involvement, Captain Guthrie stated that he asked an officer on the phone if he needed any further assistance from J.F.R.D. and he replied that they were not needed for anything further, and a D.U.I. unit would be responding. This concluded the interview.

**Witness-** J.F.R.D. Engineer Warren Golden (B/M 9200 Hogan Rd. Jacksonville FI. 32216)

On 08-19-16, I conducted an interview with Engineer W. Golden at J.F.R.D. Fire Station #28 during his normally assigned work hours. The witness was placed under

oath and signed a sworn affidavit. Engineer W. Golden confirmed that he was working on 07-03-16 and recalled the vehicle crash investigation under review.

Engineer W. Golden stated that he remembered arriving on scene and observed a vehicle facing southwest at the end of a retention pond. He stated that he conducted an assessment of the female occupant first and confirmed that she was not injured. He then assisted with conducting an assessment of the male occupant and confirmed that neither was injured. When asked if he noticed any signs of impairment from the occupants, he replied "No, they seemed normal". He stated that he did not detect any smell of an alcoholic beverage and both were walking around and answering questions appropriately. Engineer W. Golden stated that he was unaware of the driver's celebrity status as a Jaguar player and did not learn of the fact until after several minutes but he could not recall who told him. He was able to tell me that it was a member of JFRD that told him and not a JSO officer. When asked for his impression on whether or not it appeared that the occupants were receiving preferential treatment, he replied that he felt like the officer was "drilling" the driver by asking him a lot of questions related to the crash. Engineer W. Golden stated that he believed both the driver and passenger were just tired and stated that the female passenger told him that they attempted to go smoke hookah, but the hookah place was closed and she fell asleep on the drive back. This concluded the interview.

**Witness-** Officer J. Alexander #69031 (W/M 9501 Arlington Expressway Jax., FL. 32225)

On 09-01-16, I conducted an interview with Officer J. Alexander at the Zone 2 Substation during his normally assigned work hours. The witness was placed under oath and signed a sworn affidavit. Officer Alexander recalled working on 07-03-16 as a police officer recruit, and the traffic investigation under review.

Officer Alexander stated that he authored the traffic crash report under the guidance of Officer Camacho while he was in the field training program. He stated that on the morning of the crash, he responded to the traffic crash and observed the vehicle partially in the water with two occupants in the vehicle. He described the vehicle's positioning as the front two tires and the headlights partially submerged. He stated that

after removing the occupants from the vehicle, he observed a small amount of water on the vehicle's floor boards. He stated that he "pulled" the female passenger from the vehicle and was met with resistance when trying to remove the driver. He described the resistance from the driver as being his unwillingness to immediately exit the vehicle and his attempt to exit from the driver's side door.

Officer Alexander stated that he walked with the driver up the embankment to be evaluated by Fire/Rescue personnel and stated that he was unaware of the driver's status as a professional football player until he was told by an unknown fireman as to who he was. Officer Alexander stated that he returned to his patrol vehicle and used Google to verify his identity and used that information to run his name through D.H.S.M.V. for his license status. When asked if he discussed his football career with Mr. Robinson, Officer Alexander replied that he does not watch the N.F.L. and never discussed it with him. Officer Alexander stated that Mr. Robinson never mentioned to him that he was a football player and did not ask for any type of preferential treatment. He stated that if he would have told him, he would not have believed him due to his size. Officer Alexander stated that no one on scene asked for an autograph or any favors from Mr. Robinson.

When asked why a D.U.I. unit was called to the scene and what indicators were present to suspect the driver was under the influence, Officer Alexander was unable to articulate why he suspected impairment except for the driver being hard to initially wake up. He stated that he did not smell an alcoholic beverage, did not see alcoholic beverages in the vehicle, and he did not see him walking unsteady. Officer Alexander was unable to remember if he noticed the driver's eyes being bloodshot. He recalled speaking with Officer Camacho and relaying to him that the driver was asleep upon making contact with him and he decided to call for Officer Borgert.

When asked to clarify his statement in the report that the driver was "passed out" during the whole process, Officer Alexander stated that he meant sleeping and believes that would have been a better choice of words. Officer Alexander stated that after Officer Borgert conducted an assessment of the driver, he stated to them that he was uncomfortable charging the driver with D.U.I. He was unable to recall whether Officer Borgert explained to him about not having enough indicators for D.U.I. or how he

phrased it but Officer Camacho then informed him that it would be handled as a regular traffic crash. When asked who made the decision to not write Mr. Robinson a citation for the traffic crash, Officer Alexander could not remember discussing it with Officer Camacho but wrote in the report that no citations were issued for the crash. This concluded the interview.

**Principal – Officer M.T. Borgert #6520 (W/M 7100 Powers Ave. Jax., Fl. 32217)**

On 09-07-16, I conducted an interview with Officer Borgert at the Zone 3 substation during his normally assigned work hours. The principal was placed under oath and signed a sworn affidavit. Officer Borgert recalled the morning of 07-03-16 and his involvement in the traffic crash and subsequent D.U.I. investigation.

He stated that he received a phone call from Officer Camacho at the beginning of his shift requesting his assistance with a possible D.U.I. investigation. He recalled that Officer Camacho stated to him that he did not smell any alcoholic beverages or see any open containers of alcohol but suspected the driver may have been impaired.

Upon arriving on scene, he spoke with the female passenger in the vehicle and the registered owner of the vehicle who had arrived on scene after the crash. Officer Borgert noted that the passenger did not have an odor of alcoholic beverages, was not swaying back and forth and had clear speech. He stated that the passenger appeared lethargic and sleep deprived but did not believe she was impaired. Both parties relayed to Officer Borgert that they were in the driver's company on the previous day for a social gathering and had not yet been to sleep. They described the driver as having little to no alcoholic beverages earlier in the evening despite going to a night club. Both parties were described as being cooperative with Officer Borgert.

Officer Borgert then examined the vehicle and noted that there were no alcoholic beverages inside of the vehicle or any paraphernalia from illegal activity. He described the vehicle as being partially in the water at an angle on the driver's side but did not consider it submerged.

Officer Borgert observed the driver of the vehicle placed in the backseat of Officer Camacho's vehicle. He noted that due to the driver being in a confined, sterile area, it was a good opportunity to observe and smell the driver for potential signs of

impairment. Upon opening the door and speaking with the driver, Officer Borgert stated that he did not smell any odor of an alcoholic beverage and stated that he was awake and alert. He noted that he did not observe any flushing of the skin, bloodshot eyes, or slurring of his speech. Officer Borgert advised the driver that he was on scene to conduct a D.U.I. investigation separate from the crash investigation and advised him of his Miranda Warnings. He stated that the driver was asked if he would be willing to speak with him without a lawyer present and the driver declined to make a statement. The driver was asked if he would be willing to participate in the field sobriety exercises and he stated that he would not be willing to do so. Officer Borgert described Denard Robinson's demeanor as polite and cooperative which can be unusual for an impaired driver. Officer Borgert concluded his conversation with the driver at this point and spoke with Officer Camacho.

Officer Borgert stated that he informed Officer Camacho that based on his training and experience, he did not believe there was probable cause for a D.U.I. investigation or D.U.I. arrest and requested the driver to be allowed to exit the patrol vehicle. Officer Borgert stated that he observed the driver one last time as he exited the patrol vehicle and noted that he was not unsteady on his feet and did not need any assistance. Officer Borgert stated that his only involvement in the traffic crash report was his advice to Officer Camacho to include that he was called to the scene and screened the driver for sobriety. He did not recall whether he discussed with Officer Camacho the issuance of a civil traffic citation to the driver.

When asked to clarify what was said when Officer Camacho contacted him over the phone, Officer Borgert recalled that he was not told the incident involved a Jacksonville Jaguar player over the phone. He stated that Officer Camacho relayed to him that he did not smell an odor of an alcoholic beverage or see any open containers, but noted that the driver had a bar wrist band on his arm. He stated that he had concerns due to the driver being so lethargic and the unexplained reason the vehicle crashed into the retention pond. Officer Camacho asked him if he would respond and give him his opinion. When asked by me what his opinion was as to why the driver may have caused the crash after his observations, Officer Borgert stated that he did not

believe it rose to the level of a D.U.I. investigation, much less an arrest and believed it was likely related to sleep deprivation.

When asked how he learned that the driver was a professional football player, he stated that he recognized the drivers name as a Jacksonville Jaguar when it was relayed to him by Officer Camacho but stated that he was unaware of whether he was a current or previous player. He stated that he did not observe any officers on scene discuss with the driver his profession or ask for any favors or autographs. He stated that the driver did not ask for any special consideration as well.

When asked to clarify on his training and experience conducting D.U.I. investigations, Officer Borgert replied that he has made approximately 900 D.U.I. arrests during his 15 years as a J.S.O. officer including the 7 years he was assigned to the D.U.I. unit. He has received over 300 hours of formalized D.U.I. training as an officer and an instructor and has been certified by at least four courts in the fourth judicial circuit as a Drug Recognition Expert. Officer Borgert stated that he has been involved previously with the arrest and successful prosecution of a Jacksonville Jaguar for D.U.I. and it received media scrutiny as well. This concluded the interview.

**Principal- Officer F. Camacho #68469 (H/M 7100 Powers Ave. Jax. Fl. 32217)**

On 09-07-16, I conducted an interview with Officer F. Camacho at the Zone 3 substation during his normally assigned work hours. The principal was placed under oath and signed a sworn affidavit. He remembered the traffic crash under review and was asked to recall the events from that incident.

Officer Camacho stated that he and his recruit (Officer J. Alexander #69031) were dispatched to a crash with possible injuries Beach Blvd. near the intersection with Southside Blvd. Upon arriving on scene, he observed the vehicle partially submerged in the retention pond and followed as his recruit approached the vehicle from the passenger side. He stated that the vehicle was angled in such a manner that if the driver's door was opened, water would get inside the vehicle. The placement of the vehicle was significant to him because he is unable to swim and feared getting stuck in the deep mud.

Officer Camacho observed that both occupants were asleep inside of his vehicle and watched as his recruit “banged” on the windows in an attempt to wake up the occupants. He stated that it took his recruit several attempts to wake up the occupants of the vehicle and assist them from the vehicle.

Both occupants walked up the embankment unassisted and were lead to where the J.F.R.D. had arrived for medical treatment. While being evaluated by Fire/Rescue personnel, Officer Camacho stated that he began to interview the driver as to what caused the crash. He stated that the driver repeatedly stated to him “Uber driver” and “Uber vehicle”. After the driver was cleared medically, Officer Camacho stated that he observed that the driver had a wrist band on his wrist from a bar and stated that he thought he smelled a “slight”, “faint” odor of an alcoholic beverage. He noted that the driver’s speech was not slurred, he was not unsteady on his feet, his eyes appeared clear, and his demeanor was non combative and polite.

Due to his inability to explain why the traffic crash occurred after the driver was cleared medically, combined with the few indicators he observed, Officer Camacho contacted the P.I.C. (Patrolman In Charge) Officer S. Hayes for guidance to “cover all of his bases”. He explained the circumstances involved in the crash and stated that he was unsure if alcohol was a contributor to the crash or not. Officer Hayes recommended that he contact Sergeant Shore and request his assistance. Sgt. Shore noted the time of the morning and decided that Officer Borgert would be of assistance to him based on his vast experience.

Officer Borgert was contacted and arrived on scene shortly after being requested. Officer Camacho stated that he observed Officer Borgert conduct the D.U.I. investigation and at its conclusion, he reported to him that he did not feel there was probable cause for a D.U.I. investigation or D.U.I. arrest. Officer Camacho referred to Officer Borgert as an expert and stated that he had previous knowledge and examples of his abilities to perform D.U.I. investigations and trusted his determination.

Officer Camacho instructed the recruit officer to complete the traffic crash report and requested a tow truck to remove the vehicle from the retention pond thus completing his involvement in the traffic crash investigation.

When asked if he recalled the tow truck driver taking a photograph of the vehicle prior to towing it, he replied that he did not.

When asked how he learned of the driver's status as a professional football player, Officer Camacho responded that he did not recognize the driver and was having difficulty confirming his identity through investigative data bases due to a spelling error. It wasn't until he questioned the driver further about his name that a member of the J.F.R.D. vouched for his identity due to him recognizing him. Recruit Officer Alexander then confirmed the spelling and identity of the driver by utilizing the internet to confirm his identity further.

When questioned about the construction of the traffic crash report narrative; Officer Camacho stated that his recruit completed the narrative on his own due to him being a phase three recruit. He stated that he read the narrative prior to its submission. When asked to clarify whether the use of the phrase "passed out" or "sleeping" in the narrative better described their initial observations of the occupants, Officer Camacho stated that sleeping would have been the correct wording. He stated that the use of the phrase "pulled out" to describe how the passenger was removed from the vehicle was not literal and they attempted to articulate that the driver and passenger were asleep and it took Recruit Alexander effort to wake up the driver and he had to be assisted upon his exit. He also stated that the notation that the driver refused rescue was incorrect since both occupants were examined by J.F.R.D.

Officer Camacho stated that the crash report narrative was started by Recruit Alexander prior to arrival of Officer Borgert with the belief that it may involve a D.U.I. arrest thus explaining the detail used to describe the occupants of the vehicle in such a manner that is not common for most traffic crash reports. At the conclusion of Officer Borgert's investigation, the narrative did not include the efforts taken by Officer Borgert to dispel his suspicion of impaired driving.

Officer Camacho stated that he chose to not issue a traffic citation to the driver of the vehicle due to the fact that there was no damage to any property other than the damage to the driver's vehicle. He stated that it is a common practice used when the only damage suffered is that of the single vehicle involved. Officer Camacho admitted

that he incorrectly did not include the enforcement action taken whether it be written, or verbal in the narrative contrary to common practice.

**CONCLUSION:**

On 07-03-16 at 0421, a single vehicle traffic crash was reported at Beach Blvd and Southside Blvd. The initial information reported to the dispatcher stated that an Impala traveled across the wrong side of the road and was in a retention pond with occupants inside of the vehicle. Officer F. Camacho with Recruit Officer J. Alexander was dispatched to the crash as the primary investigating officers. Both the driver and passenger were evaluated by J.F.R.D. and medically cleared. Due to the unexplained cause related to the crash and the driver's action of sleeping and having to be awakened, Officer Camacho requested the assistance of a more experienced D.U.I. officer to evaluate the driver for possible impairment. Officer M.T. Borgert responded to the scene and conducted an assessment of the driver. At the conclusion of Officer Borgerts' assessment, in his expert opinion, there was no probable cause to conduct a D.U.I. investigation, let alone a D.U.I. arrest. Officer Borgert concluded his involvement and returned to duty completing no reports, and no citations until instructed to do so by Lieutenant M. Dorner at a later date.

Under the instruction of Officer Camacho, Recruit Officer Alexander completed the traffic crash report in a format that would be indicative of a D.U.I. arrest associated with a traffic crash without issuing a citation or stating what enforcement action was taken and submitted it for approval to P.I.C. Hayes.

The narrative failed to document the efforts taken by the officers on scene to dispel any concerns of impaired driving, the lack of enforcement action taken, and was structured in a format that would lead a reasonable person to believe that the driver in this incident was impaired. Due to the lack of complete information included in the traffic crash report narrative, the reputation of the Jacksonville Sheriff's Office was needlessly questioned and could have been prevented with a more detailed report.

**Final Classification:**

Based on my investigation, a review of reports associated with the traffic crash investigation, and the statements provided by witnesses, I recommend that the charge of **Failure to Conform to Work Standards** against **Police Officer M.T. Borgert # 6520** be classified as **EXONERATED**.

Based on my investigation, a review of reports associated with the traffic crash investigation, and the statements provided by witnesses, I recommend that the charge of **Failure to Conform to Work Standards** against **Police Officer F. Camacho #68469** be classified as **Sustained**.

***“Under penalties of perjury, I declare that I have read the foregoing and that the facts stated in it are true based upon my personal knowledge, information and belief.” “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.”***

**Respectfully Submitted,**

*Lt. Mark E. Dorner #7360*

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September 16<sup>th</sup>, 2016