



MARION COUNTY

SHERIFF'S OFFICE

TO: MAJOR LOUIS PULFORD

FROM: Inspector Sergeant Nickolas Frost

DATE: October 11, 2023

SUBJECT: ADMINISTRATIVE REVIEW 23-160 (NARRATIVE OF FINDINGS)

On 09/19/2023, Captain Christopher Vorisek #907 reviewed cell phone data from the agency cell phone issued to Deputy Dylan Fruh #6715 and located a concerning text message sent to citizen [REDACTED]. A search of Deputy Fruh's activity on 06/14/2023 revealed he assisted deputies in attempting to locate subjects who were possibly stuck in a swampy area near [REDACTED], FL. A D.A.V.I.D. audit revealed Deputy Fruh searched [REDACTED] license plate, name, photo and signature array, and driver's license transactions with the purpose code "Traffic Related Query." A search revealed no record of Deputy Fruh being involved in a traffic investigation during this time.

On 09/19/2023, this incident was assigned to the Office of Professional Standards for further investigation, and I was provided with the following:

- D.A.V.I.D. audit of Deputy Fruh's activity from May 2023 through September 2023
- Deputy Fruh's LInX security query log
- Deputy Fruh's LInX security access log
- Cellbrite Extraction report from Deputy Fruh's agency assigned cell phone

I first reviewed the audit of Deputy Fruh's D.A.V.I.D. activity between May 2023 and September 2023. On 06/14/2023, at 1601 hours, he conducted a "Plate" search for [REDACTED] and used purpose code, "Traffic Related Query." A search of this license plate revealed the vehicle to be a 2003, red 4 door Mercury registered to [REDACTED], a deceased male, and [REDACTED]. Deputy Fruh then selected "Owner Record Detail" for [REDACTED], and her "Photo and Signature Array," and was provided with her five (5) Florida driver's license photographs. He then searched [REDACTED] "DL Transaction Details."

At 1602 hours, Deputy Fruh conducted another "Plate" search of license plate [REDACTED]. He used purpose code "Traffic Related Query," and viewed [REDACTED] "Owner Detail Record."

At 1603 hours, Deputy Fruh conducted a "Business Name" search of the address, [REDACTED] again using purpose code, "Traffic Related Query." This search yielded no results. He then viewed [REDACTED] D.A.V.I.D. profile again, at 1603 hours.

I reviewed Deputy Fruh's complete D.A.V.I.D. history, from 01/01/2023 to 09/29/2023, which began on 05/05/2023, contained 996 pages of data, and consisted of 329 inquiries.

I reviewed Deputy Fruh's D.A.V.I.D. "Photo and Signature Array" data from 01/01/2023 to 06/14/2023. He accessed this data fifteen (15) times, beginning on 05/09/2023.

I obtained Deputy Fruh's D.A.V.I.D. test, which he successfully passed on 05/05/2023.

I reviewed the D.A.V.I.D. legal disclaimer notification data for Deputy Fruh with his username, [REDACTED]. On 06/14/2023, at 1411 hours, he agreed to the legal disclaimer when he selected the box, "I have read and understand this agreement."

I reviewed Deputy Fruh's LInX searches which utilized his agency user ID, [REDACTED]. For "Security Query Log," on 06/14/2023 at 1604 hours, he conducted both a "Free Text" and "All" search of [REDACTED] Florida Driver's license number. For the required justification code, he used "23010674." I then reviewed the search results under "Security Access Log." Deputy Fruh partially accessed five (5) incidents where [REDACTED] had an interaction with the Florida Highway Patrol (FHP) and one (1) incident involving the Marion County Sheriff's Office [REDACTED]. He fully accessed one (1) incident involving an FHP incident (89563388) which listed [REDACTED] phone number.

I conducted an in-house search of the justification code, "23010674." As an MCSO case number, it was issued to a case with no connection to [REDACTED] or Deputy Fruh. The number also does not conform to any current transaction numbers.

I reviewed the Cellbrite Extraction report for Deputy Fruh's agency issued cell phone. Under "Chats," on 06/14/2023 at 1605 hours, he sent a text message to [REDACTED] which stated, "You let me know if you see them." [REDACTED] then replied, "who's this?" At 1606 hours Deputy Fruh responded, "Deputy Fruh, I just spoke to you." [REDACTED] asked him how he obtained her phone number and provided information about several boys who reside in the area. At 1611 hours, Deputy Fruh replied, "Girl we got resources." They exchanged several more messages before the conversation ended at 1614 hours.

I reviewed the Incident Detail Report dated 06/14/2023 (transaction 2306140559). The Call for Service (CFS) was generated at 1439 hours and involved subjects yelling for help and possibly stuck in the swamp behind the reportee's house. Multiple units, to include Deputy Fruh, were assigned to the CFS, with Deputy Fruh being assigned as a backup unit at 1448 hours. He arrives on scene at 1459 hours along with Deputy Hadyn Helinski #6576. Information was obtained regarding the subjects, but units were unable to locate them. According to Deputy Helinski's CFS comments, the reportee located the subjects, who did not appear to be stuck, and they walked away not wanting to wait for deputies. Nowhere in the CFS was [REDACTED] name, address, or phone number documented.

I reviewed Deputy Fruh's AVL data for 06/14/2023, between 1428 hours and 1638 hours. Deputy Fruh arrived at the incident location at 1501 hours and remained there until 1511 hours. At 1557 hours, his GPS placed him at [REDACTED] residence, located at [REDACTED] and he remained there until approximately 1601 hours.

On 9/29/2023 I responded to [REDACTED] residence, located at [REDACTED], in [REDACTED] FL. I made contact with her and conducted a sworn, audio-recorded interview at 1327 hours. [REDACTED] explained when Deputy Fruh contacted her, he knocked on her

door and asked if she had seen or heard two (2) or three (3) boys yelling for help. [REDACTED] told him she had not seen or heard anything and advised that Deputy Fruh told her to call the "precinct" if she should see or hear anything. She told him she would, and their conversation ended. [REDACTED] advised they only discussed the subjects stuck in the swamp, and when Deputy Fruh left, she went back inside of her residence. She advised their conversation lasted only a minute or two and stated, "I didn't have any information for him and didn't know what he was talking about."

[REDACTED] stated she did not provide Deputy Fruh with her contact information or phone number and does not believe she told him her name. I then asked if she recalled what time Deputy Fruh spoke with her. [REDACTED] looked at her cell phone, advised he texted her at 1605 hours, and advised he had just spoken to her approximately two (2) minutes prior.

When asked about her vehicle, [REDACTED] believed it was parked at her residence during her interaction with Deputy Fruh. She described it as 2003 red Mercury Sable.

I then discussed the text message conversation she had with Deputy Fruh. [REDACTED] stated when she received the text message, she did not know who it was because she had not given anyone her phone number. When she responded to the text message, Deputy Fruh replied and told her he had just spoken with her. [REDACTED] then read the text conversation between herself and Deputy Fruh to me and provided me with screen shots of the conversation.

I asked [REDACTED] if Deputy Fruh ever called her, and she stated no. I asked if he has contacted since the end of their text conversation, and she again stated no.

[REDACTED] advised she is aware deputies wear body cameras but did not know whether Deputy Fruh's Body Worn Camera (BWC) was on.

At the conclusion of the interview, [REDACTED] advised she felt uncomfortable because she did not know how Deputy Fruh obtained her phone number. After she informed her parents, they told her not to text him anymore because he could be a "weirdo." She stated she was aware law enforcement has the ability to obtain her phone number but she still felt "creeped out."

While in the area of [REDACTED] residence, I canvassed the area and noticed the incident location, [REDACTED], was several hundred feet from the [REDACTED] residence. The incident location backs up to a large swamp/marsh land. There is a narrow canal which branches from the swamp and appears to go behind [REDACTED] residence. I observed there to be five (5) houses in the area, to include [REDACTED] and the incident location. No one was home at any of the houses, and some appeared to be vacant. I was able to later contact one of the other homeowners and they advised they were not home during the time of the incident and do not know if a deputy attempted to contact them.

On 09/29/2023, Deputy Fruh was served with the Comment/Complaint form, the Notice of Pending Investigation, and Employee Rights forms.

On 10/05/2023, I conducted a search of Deputy Fruh's BWC video for 06/14/2023, specifically to locate BWC footage of his interaction with [REDACTED] or any footage of his involvement in transaction 230614559. There was no record of this transaction in evidence.com which indicated his BWC and/or in-car Fleet camera were not activated.

On 10/10/2023 at 1807 hours, I conducted a sworn, audio-recorded interview with Deputy Fruh in my office at the Office of Professional Standards. Deputy Fruh was provided with the opportunity to review all evidence collected until that point. He elected not to review any documents or [REDACTED] interview.

Deputy Fruh explained his involvement in transaction 2306140559, and advised he was dispatched as a backup unit. He stated he arrived at the incident location with Deputy Helinski and his Trainee as well as Marion County Fire Rescue. Deputy Fruh stated while he was at the incident location, he never made contact with the reportee and only spoke with the firefighters. After leaving the incident location, he and Deputy Helinski were parked car-to-car in front of [REDACTED] residence, talking. It was at this time, [REDACTED] pulled up to her residence in her vehicle and waved at them, but no contact as made with her at this time. They then decided to bolo the neighborhoods surrounding the swamp/marshland for the subjects but ultimately never located them. Deputy Fruh did advise while boling the area, he spoke with several people who approached his vehicle and were concerned with the increased law enforcement presence in the area.

After being unable to locate the subjects, Deputy Fruh decided to return to the area of the incident location because Fire Rescue was still there. This was when he decided to stop at [REDACTED] residence and ask her if she had seen or heard anything. Deputy Fruh advised [REDACTED] had no information regarding the incident and he told her to contact the Sheriff's Office if she should see or hear anything.

I asked Deputy Fruh why he went to [REDACTED] house, and he stated, "because I thought she was cute." Deputy Fruh advised he did not knock on anyone else's door, he just bolo'd the area by driving through the surrounding neighborhoods.

Deputy Fruh advised he spoke with [REDACTED] for four (4) or five (5) minutes and only discussed the CFS. Deputy Fruh advised [REDACTED] did not provide him with a form of identification and he is unsure if he asked for her name. He stated he identified [REDACTED] after he ran her vehicle's license plate number before he spoke to her. When asked if he activated his BWC, Deputy Fruh stated he does not think so. He advised there was no particular reason he did not activate his BWC, just that he forgot.

When asked why he ran [REDACTED] license plate, he stated, "I like to know who I'm talking to." I advised that when [REDACTED] passed him earlier, while he was car-to-car with Deputy Helinski, he saw who she was. Deputy Fruh replied that he wanted her name in case any "red flags pop up." When asked why he used D.A.V.I.D. to run [REDACTED] instead of FCIC/NCIC, he advised he wanted a picture to confirm it was her.

When asked why he selected [REDACTED] "Photo and Signature Array," he advised he could not remember, explained it may have been an accident, and that there was "no real

reason." When asked why he selected "Traffic Query," Deputy Fruh advised it was a "mis-click" and he meant to select "Verify Identity."

I asked Deputy Fruh why he conducted a D.A.V.I.D. search of [REDACTED] residence and he stated, "it was just me being nosy." When asked if he ran [REDACTED] address for any law enforcement purpose, he stated, "No."

I mentioned to Deputy Fruh that [REDACTED] was not listed in the CFS. I then asked him if his law enforcement purpose was for searching [REDACTED] in D.A.V.I.D. was to satisfy his curiosity and he stated, "it was just curiosity."

I asked Deputy Fruh if he read the legal disclaimer for D.A.V.I.D. and he stated he does not read it every time, but he has read it before.

Deputy Fruh stated he conducted a LInX search of [REDACTED] driver's license number to "know who he was talking to" and to obtain her phone number, which he successfully obtained off an FHP citation. When asked why he needed her phone number, Deputy Fruh stated, "for the reason that I thought she was cute," and so he could be "on the ball" if she saw anything. I reminded Deputy Fruh that [REDACTED] told him earlier she did not see or hear anything, and he added that if she saw anything for "future reference." I then reminded him that he told her to call the Sheriff's Office if she had more information, and he advised he wanted her to message him first. I asked Deputy Fruh if he believed this was a good decision and he stated, "No." I asked if he thought it would be better for [REDACTED] to contact the Comm Center instead of contacting him to which he replied, "Yeah."

I asked Deputy Fruh about the justification code he used to obtain [REDACTED] information in LInX, and he advised he intended to use the call's transaction number but when he clicked on the justification code, it populated with another number.

Deputy Fruh advised he had read the legal disclaimer for LInX.

I discussed the text messages he sent to [REDACTED] and the fact that when he sent the first text message, he had just spoken to her and was still near her residence, which he agreed. I asked him why he texted her and he advised it was so [REDACTED] had his phone number saved in case she had more information to provide regarding the CFS. I asked if his text, "girl we have resources" was appropriate to send to [REDACTED], and he replied, "Nope, not at all."

I then discussed the discrepancy in his timeframe. I advised Deputy Fruh he stated that he spoke with [REDACTED] after he searched her in D.A.V.I.D. and LInX. I informed Deputy Fruh that all the collected data, which included GPS, text message times, and [REDACTED] statement, indicated that he spoke with her before searching her. I also told him I recognized that a significant amount of time had passed since this incident occurred. Deputy Fruh stated, "I can 100% remember that I ran her through D.A.V.I.D. first." I explained the timeline of events do not support his statement of him speaking to her after conducting a search of her. Deputy Fruh acknowledged the discrepancy between the time he spoke with [REDACTED] and the time he searched her in D.A.V.I.D. AND LInX, did not dispute the evidence, but stated he did not remember searching her after speaking to her.

I asked if it was possible that he spoke with her and then searched her in D.A.V.I.D. and InX and Deputy Fruh stated, "yeah, it's very possible."

Based on the aforementioned, regarding violation of **Operations Directive 4530.20 (B)1 ACTIVATION OF BWC-** Deputies shall activate their BWC units to record at the onset of all official police duties/actions and calls for service. Examples include, but are not limited to, the following: a. Citizen encounters related to an official police duty/action and c. Dispatched calls for service, is **SUBSTANTIATED.**

Based on the aforementioned, regarding violation of **Operations Directive 2082.40 (G)1 D.A.V.I.D. AUTHORIZED USE AND RELEASE-** Information obtained from the D.A.V.I.D. system will not be used for any purpose not specifically authorized by this policy (consistent with the MOU). Unauthorized use includes, but is not limited to, queries not related to a legitimate business purpose, personal use, and dissemination, sharing, or providing this information to unauthorized persons is **SUBSTANTIATED.**

Under penalties of perjury, I declare that I have read the foregoing Narrative of Findings and that the facts stated in it are true.

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 this investigation, of any of the rights contained in 112.532 and 112.533, Florida Statutes.


Inspector Sergeant Nickolas Frost #5024
Office of Professional Standards

Cc: Sheriff Woods
Chief Deputy Douglas
Captain Chisholm
Lieutenant Curtis

Billy Woods, Sheriff

agency law enforcement officer asks to see a Deputy's recording of a recorded incident, the member shall refer the requestor to the BWC administrator to initiate a public records request.

n. Deputies are strictly prohibited from making, retaining, or disseminating copies of any BWC video or images obtained from the BWC video for personal use or non-official purposes.

4530.20 ACTIVATIONS AND RECORDINGS

B. ACTIVATION OF BWC:

1. Deputies shall activate their BWC units to record at the onset of all official police duties/actions and calls for service. Examples include, but are not limited to, the following:

- a. Citizen encounters related to an official police duty/action.
- b. Enforcement/arrest actions.
- c. Dispatched calls for service.
- d. Self-initiated contacts/activities where reasonable suspicion and/or probable cause exists that a crime is being committed, has been committed, or is about to be committed, or evidence of a crime is present.
- e. Traffic stops.
- f. Crashes involving police vehicles.

C. NOTIFICATION OF RECORDINGS:

1. Deputies are not required to obtain consent from individuals to video/audio record with the BWC. Deputies are not required to inform individuals that they are being recorded. If, however, the Deputy determines that informing an individual may de-escalate a situation, or if asked whether a BWC is being utilized, the Deputy should disclose the BWC is recording the interaction.

D. RECORDING DURATION:

1. As a general rule, once the BWC recording system is activated, it shall remain on until the incident/investigation has reached a conclusion or the BWC operator has cleared from the call. Exceptions to this are as follows:

- a. If a Deputy is assigned a static post where he/she is not in contact with involved citizens or actively part of the investigation (i.e. perimeter security, etc.).
- b. Areas with reasonable expectations of privacy and a person with apparent authority over the location asks to turn off the BWC, unless reasonable suspicion or probable cause exists that a crime is being committed, has been committed, or is about to be committed, or evidence of a crime is present.

2. Deputies may temporarily deactivate their BWC or mute the microphone when:

- a. Conducting conversations containing privileged information (i.e.

2082.40 D.A.V.I.D. (Driver and Vehicle Information Database)

- A. It is the policy of the Marion County Sheriff's Office to establish guidelines for the use and applications for tasks performed via Driver and Vehicle Information Database (DAVID). This policy is based on the provisions of the Memorandum of Understanding (MOU) form issued by DHSMV dated 09/01/2009 and any subsequent MOU. The current MOU, effective February 21, 2022, through February 20, 2028, is attached to this policy.
- B. The DAVID system provides important personal, vehicle information and photographs useful for criminal investigations and for other law enforcement purposes. The database may be accessed through the internet using a USER ID and PASSWORD. Physical security of the computer must be always maintained to prevent unauthorized access to DAVID.

Department personnel accessing and using information obtained from the state Driver and Vehicle Information Database (DAVID) will comply with the Driver's Privacy Protection Act (18 United States Code, Title 1, Chapter 123, Section 2721 et seq. and F.S.S. 119.0712) and the information safeguards stated in the Memorandum of Understanding (MOU) executed with the Florida Department of Transportation, Division of Highway Safety and Motor Vehicles (DHSMV) as outlined in the policy.

Information obtained under the provisions of the MOU will only be disclosed to persons to whom disclosure is authorized under Florida law and federal law.

- C. Access to DAVID
 - 1. Access to the DAVID system will be available upon request to authorized department personnel and placed on restricted access department computers where a reasonable investigative or administrative need for Florida Driver's license or vehicle registration information exists. This would include, but not be limited to, sworn members, crime analysis personnel and administrative personnel. Other personnel may be permitted access upon approval of the Sheriff or his designee.
 - 2. Access will be provided via internet connection on department computers or devices.
 - 3. Users shall be required to obtain an individual account. Users shall not access DAVID on non-department computers or devices unless it is an emergency where access via department computers or devices is not available. Access to DAVID on non-department issued computers or devices must be documented in the call for service or case file.
 - 4. Users will not be authorized to access DAVID using the account of another user.
- D. Department members will not share, provide, or release any D.A.V.I.D. information to any other law enforcement, governmental agency, person, or entity not a party or otherwise subject to the terms and conditions of the M.O.U signed by the Sheriff.

E. Authorized Use of DAVID information

1. Consistent with 18 United States Code, Title 1, Chapter 123, Section 2721 et seq and F.S.S. 119.0712, DAVID information may be used for:
 - a. Criminal and Traffic investigation
 - b. Distribution of photographs of missing persons (adults or children) to the public to aid in their recovery provided no other photo is available.
 - c. Investigation of child neglect, not necessarily criminal.
 - d. Child placement background investigations.
 - e. Department employment driver's license, background checks, or status checks.
 - f. Department internal investigations into DAVID misuse or to otherwise aid in internal investigations.
 - g. Aid in locating persons to be served legal (civil and criminal process).
 - h. Identification for prisoner transfers.
 - i. Verification of identity or background checks for department volunteers, or contractors.
 - j. Legitimate business purposes.
2. Consistent with F.S. S. 119.0712(2) I Emergency Contact Information contained in a motor vehicle record is confidential and exempt from s. 119.07(1) and s.24(a). Article I of the State Constitution. Without the express consent of the person to whom such emergency contact information applies, the emergency contact information contained in a motor vehicle record may be released only to law enforcement agencies for purposes of contacting those listed in the event of an emergency or to a receiving facility, hospital, or licensed detoxification or addictions receiving facility pursuant to s. 394.463(2)(a) or s. 397.6772(1)(a) for the sole purpose of informing a patient's emergency contacts of the patient's whereabouts.

F. Security of Information

1. Department personnel and authorized users will:
 - a. Not retain DAVID records in a manner that could cause them to be released as a public record.
 - b. Protect access to the information obtained in such a way that unauthorized persons cannot review or retrieve the information.
 - c. The Marion County Sheriff's Office will not interface DAVID to a third party.

G. Driver's Privacy Protection Act (DPPA) and public record access

1. Unauthorized use and release – Information obtained from the DAVID system will not be used for any purposes not specifically authorized by this policy (consistent with the MOU). Unauthorized use includes, but is not limited to, queries not related to a legitimate business purpose, personal use, and dissemination, sharing or providing this information to unauthorized persons.
2. Release of information – Department personnel and authorized users will protect and maintain the confidentiality and security of personal information from the driver's license, motor vehicle traffic crash records from DAVID in accordance with the MOU and applicable state and federal