

GAINESVILLE POLICE DEPARTMENT INTERNAL AFFAIRS INVESTIGATIVE REPORT

File Class:	Internal Investigation	Date Occurred:	December 29, 2018
Comp Type:	Internal Complaint	IA#:	18-015
Date Received:	February 7, 2018	Date Closed:	
Related Cases:	18-000320	Assigned to:	Sgt. Stephen Hayes

LOCATION OF COMPLAINANT

Address:	3730 SW Archer Road	City:	Gainesville, FL.	Addl Info:	
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ASSOCIATED NAMES

CO: Sgt. Rebekah Moore	SEX/ RACE/ DOB:	NA
CO:	SEX/RACE/DOB:	
CO:	SEX/ RACE/ DOB:	
SO: Officer Monica Quimbayo	Findings/Actions:	Rule #13/Written Warning
SO: Act. Sgt. Tracy Fundenburg	Findings/Actions:	Rule #13/Written Warning
SO:	Findings/Actions:	
SO:	Findings/Actions:	
RULE OF CONDUCT ALLEGED		

City Policy E-3 Rule #13
Productivity/Workmanship.

SUMMARY / NOTES / COMPLAINT

Complaint:

On February 7, 2018 the Internal Affairs Unit received an Internal Complaint regarding Officer Monica Quimbayo and Cpl. Tracy Fundenburg's actions on December 29, 2017 during a theft investigation. The investigation was assigned to me (Sgt. Stephen Hayes) on February 7, 2018.

If sustained, these allegations would be a violation of City Policy E-3 Rule 13 of Gainesville Police Departments General Order 26.1 "Rules of Conduct."

Rule #13 states, "Productivity and workmanship not up to required standards.

Investigation:

The AIR was completed by Sgt. Rebekah Moore and a summation is as follows:

Sgt. Moore was notified by Lt. Marc Plourde that a complaint had been received about to a scheme to defraud and retail theft that had occurred at the Pink Narcissus involving Officer Monica Quimbayo and Cpl. Tracy

Fundenburg. Sgt. Moore contacted Samantha Kurtz, Tomi Thomas, and Shelby Varner about the incident. From the interviews Sgt. Moore ascertained that the complainants all felt as though the investigation was mishandled and they were made to feel stupid and embarrassed. Additionally the complainant's felt as though the suspects, Ryan and Jodi Nagel, were personally known to Officer Quimbayo which affected the investigation. During the investigation the complainants felt as though Officer Monica Quimbayo and Cpl. Tracy Fundenburg were treating this investigation as a waste of their time. Additionally the call notes entered by Officer Quimbayo stated that the "business manager does not want a report", which according to the complainants was not said. They all agree that no one specifically asked for a report to be taken but on one ever said they did not want one. Sgt. Moore collected the video evidence and conducted a full investigation under CR#18-000320. Sgt. Moore's was able to have forensic slow the video down and determine that Jodi Nagel did in fact remove unpaid items from the store. Sgt. Moore also conducted an interview of Jodi Nagel. Jodi Nagel admitted to Sgt. Moore that she stole a shirt, an elephant zipper, and switched the tags on shirt and jacket. Jodi Nagel also advised that her husband Ryan Nagel had nothing to do with the incident and was unaware of her actions. Sgt. Moore's investigation lead to the arrest of Jodi Nagel for petit theft and attempted scheme to defraud.

For my investigation I used the complaint form, CAD notes, Samantha Kurtz interview, Tomi Thomas interview, and Shelby Varner's interview and the following was concluded:

On December 29, 2017 at approximately 1920 hours suspects Ryan and Jodi Nagel entered the clothing store the Pink Narcissus. Over the next 30 minutes or so Jodi Nagel would try on several items while Ryan walked around the store and at times bring Jodi items to try on. Jodi Nagel attempted to purchase a jacket but Thomas and Varner realized that the price of the jacket was incorrect. Thomas and Varner believed that Jodi and Ryan Nagel had switched tags on store merchandise in an attempt to purchase items at a lower cost. After the interaction at the checkout counter, regarding the incorrect tag being on the jacket, Ryan and Jodi Nagel left the store without purchasing any items. Thomas and Varner check the dressing room and found a tag and hanger had been hidden under the cushion of the seat in the dressing room. Additionally the tag on the jacket that Jodi Nagel had attempted to purchase had come from a shirt that she had also tried on. Thomas and Varner closed the store and contacted the assistant manager Kurtz about the incident. Kurtz advised Thomas and Varner to call the police and that she would also head to the store. Kurtz arrived at the store prior to LEO arrival.

At 1956 hours Officer Monica Quimbayo and Cpl. Tracy Fundenburg were dispatched to a retail theft at Pink Narcissus (3730 SW Archer Road). The complainant was employee Shelby Varner and suspects were listed as Jodi Nagel with a PX attached. Call notes also state that the PX listed was that of Ryan Nagel. Ryan Nagel is an Assistant State Attorney and is known to Officer Quimbayo. Prior to Officer Quimbayo's arrival at the store she called Jodi and Ryan Nagel and advised them to return to the store. Before Officer Quimbayo and Cpl. Fundenburg's arrival at the store, Jodi and Ryan Nagel showed up. Kurtz, Thomas, and Varner all stated in their interviews that the fact that the suspects showed up prior to LEO put them in a compromising position and made them feel unsafe.

According to Thomas, upon Jodi and Ryan Nagel's return to the store they approached and knock on the locked door as the store was closed. When Varner opened the door she was confronted by Jodi Nagel who advised they had been contacted and told to return to the store because they had been accused of stealing. Minutes after the Nagel's returned to the store Officer Quimbayo and Cpl. Fundenburg arrived. Once the officers arrived everyone was standing around in a circle and the officers made Varner explain the incident in front of everyone. This allowed Jodi Nagel to refute what Varner was saying. Then the officers asked Varner, Thomas, and Shelby if they had viewed the stores surveillance tapes. This question was asked in front of the Nagel's and due to the time frame surrounding the incident the tapes had not yet been reviewed. Thomas advised that the even though this was a proper question to ask, the officers made them (Varner, Kurtz, and her) "look dumb" because they asked it in front of the Nagel's. At this point the employees, Officer Quimbayo, and Cpl. Fundenburg proceeded to a back room to view the video tapes. The Nagel's were permitted to stand directly outside the open doorway of the room where the video was being viewed. This allowed for Jodi Nagel to again interject herself into the investigation and conversations between LEO and the complainants. Thomas alluded to the fact that Officer Quimbayo was having a personal conversation with Ryan Nagel and not paying attention to the video. Cpl. Fundenburg was viewing the video tapes and had to alert Officer Quimbayo to

watch them. It was determined that due to the way the video system was able to be viewed that night, no probable cause could be established. Thomas advised that Cpl. Fundenburg stated to Officer Quimbayo that she could not find evidence on the video and Officer Quimbayo agreed. Thomas was confused on how Officer Quimbayo would agree when she was not in the room the entire time the video was being reviewed. At this point Ryan Nagel was allowed to confront the complaints and brought up the fact that he was an assistant state attorney and his wife would not steal anything. The Nagel's were then escorted out of the store by Officer Quimbayo. Thomas remembers that at this point Cpl. Fundenburg made a remark to the effects of did they really think that a state attorneys wife would steal something. Officer Quimbayo and Cpl. Fundenburg then left the scene. "

Varner's interview about the incident mirrors that of Thomas' with some additional information. According to Varner when Officer Quimbayo arrived, she immediately informed her that Ryan Nagel was a state attorney and that she had called him and told him to return to the store. Varner was then asked to explain the situation in front of the Nagel's. After Varner explained the incident to Officer Quimbayo and Cpl. Fundenburg the group moved to the video room. Varner stated that the Nagel's were positioned right outside the open door and "even would kind of give their defense to some things" while they were reviewing the video. Varner remembers that at one point Thomas points out on the video that Jodi Nagel goes behind the counter and Jodi Nagel was able to interject and give her reason for her actions. Varner also stated that while they were reviewing the video Officer Quimbayo was having a personal conversation with Ryan Nagel and not paying attention to the video. Shortly after the video review Officer Quimbayo escorted the Nagel's out of the store. Varner stated that Cpl. Fundenburg advised her that just because Ryan Nagel was a state attorney she had not treated this case any different from any other. Varner advised that Officer Quimbayo and Cpl. Fundenburg were not "rude" but they made her feel like the case was a waste of their time. Varner also advised that she never said that she did not want a report taken.

Kurtz's interview about the incident mirrors that of Thomas and Varner with some additional information. Kurtz advised that the Nagel's returning the store prior to LEO arrival put the employees in an awkward situation. Kurtz added that neither Officer Quimbayo nor Cpl. Fundenburg introduced themselves and that the investigation began with Officer Quimbayo stating that Ryan Nagel was a state attorney. Kurtz expressed that she felt like Officer Quimbayo and Cpl. Fundenburg talked down to them throughout the entire investigating. Kurtz stated that while she was attempting to work the video system Cpl. Fundenburg made the remark that maybe everyone should come in a few minutes early to learn how to use the camera system. Kurtz felt that Cpl. Fundenburg's statement was demeaning and unnecessary. Kurtz also stated that she felt "humiliated" when she was asked, by Cpl. Fundenburg, if she really thought a state attorney's wife would steal something. Kurtz stated that investigation was "just an extremely humiliating experience." Kurtz also advised that she never requested that a report not be taken.

Conclusion:

Based on the totality of the investigation the following was concluded:

Officer Monica Quimbayo and Cpl. Tracy Fundenburg did not perform an investigation up to GPD standards when dispatched to Call ID#8735873. During the investigation the parties should have been separated and interviews conducted separate. The surveillance video should have been collected and a report taken. Additionally the suspects should not have been called back to the scene prior to LEO arrival.

Therefore the allegation of a violation of City Policy E-3 Rule 13 "Productivity/Workmanship" and Gainesville Police Department General Order 26.1 "Rules of Conduct" is **sustained** for both Officer Monica Quimbayo and Cpl. Tracy Fundenburg. Additionally Officer Monica Quimbayo and Cpl. Tracy Fundenburg were offered and participated in a REDII in which they both received a written warning for City Policy E-3 Rule 13 "Productivity/Workmanship".

"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 of the rights contained in SS. 112.532 and 112.533, Florida Statutes."

IA#: 18-015

Investigator:  449

DATE: 5-23-2018

IA Commander:  285

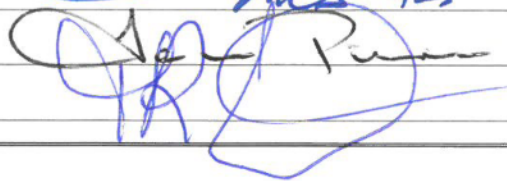
DATE: 5-23-18

Bureau Commander:  423

DATE: 5-23-18

Assistant Chief: 

DATE: 5-23-18

Chief of Police: 

DATE: 5-23-18