



## GAINESVILLE POLICE DEPARTMENT

# INTERNAL AFFAIRS INVESTIGATIVE REPORT

FILE CLASS:	IA Investigation	DATE OCCURRED:	October 14, 2022
TYPE OF COMPLAINT:	Internal	INTERNAL AFFAIRS #:	22-072
DATE RECEIVED:	October 25, 2022	DATE CLOSED:	April 7, 2023
RELATED CASES:	02-22-016517	ASSIGNED TO:	Sgt. Tracy Fundenburg

### LOCATION OF INCIDENT

ADDRESS:	545 NW 8th Ave	CITY:	Gainesville	ADDITIONAL INFO:	
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### ASSOCIATED NAMES

CO:	Lieutenant T. Durst	RACE:	Choose Race	SEX:	Choose sex	DOB:	On File
SO:	Officer E. Armstrong	FINDINGS:	Sustained	ACTIONS:	Employee Notice, 24 Hr. Suspension		

### APPLICIBLE RULE OF CONDUCT

City of Gainesville General Order 41.3 *Department Vehicle*

City of Gainesville General Order 40.14 *Body Worn Camera Video Systems (BWC)*

City of Gainesville Code of Conduct E-3, Rule 13: *Productivity or workmanship not up to required standard of performance*

City of Gainesville Code of Conduct E-3, Rule 25: *Wanton or willful violation of statutory authority, rules, regulations or policies*

### COMPLAINT / NOTES / SUMMARY

#### SUMMARY OF COMPLAINT

I was assigned to investigate an Administrative Investigation Referral (AIR) submitted by Lieutenant (Lt) T. Durst in reference to damage to a City of Gainesville patrol car. On or about October 25, 2022 Sergeant S. Girard was notified by City of Gainesville Fleet Operations that Officer E. Armstrong's assigned vehicle (Veh.) 3981 was discovered to have unreported damage. During Sergeant Girard's preliminary inquiry, Officer Armstrong said she did not know how or when the damage occurred. Officer Armstrong believed the damage occurred between the date she was issued the vehicle, on September 14, 2022 and the date Sergeant Girard was

notified of the damage (October 25, 2022). At Sergeant Girard's request, Officer Armstrong completed an incident report.

The Vehicle Incident Review Board did not have enough information to provide a determination of what caused the damage to the vehicle.

## **INVESTIGATION OF COMPLAINT**

I reviewed the following documents to complete this investigation:

- Administrative Investigation Referral form
- Incident Report
- Blue Team Vehicle Crash/Vehicle Damage report
- Computer Aided Dispatch (CAD) Calls for Service
- Body Worn Camera (BWC) video – Armstrong
- Body Worn Camera (BWC) video – Angus
- Evidence.com photos/videos
- Fleet Operations Work Order

On October 25, 2022, Officer Armstrong took her patrol car (Veh. 3981) to City of Gainesville Fleet Operations for preventative maintenance. Sergeant Girard was then notified by Fleet staff there was unreported damage to the trunk of Veh. 3981. At Sergeant Girard's request, Officer Armstrong completed a Damage to City Vehicle incident report under CR 02-22-016517. Officer Armstrong documented that on October 25, 2022 she parked Veh. 3981 at Fleet Operations for maintenance and was later notified, via email, there was a "dent on the top of the trunk (driver side)." Officer Armstrong noted she was issued the vehicle on September 13, 2022 and neglected to take any "personal photos" of the vehicle. She documented that she did not know when or how the damage occurred but must have happened between September 13 and October 25, 2022.

On December 8, 2022, I went to Fleet Operations and met with Fleet Operations Supervisor, Paul Stark Jr., who showed me the trunk lid of Veh. 3981. The lid had been removed from the vehicle and was inside the service garage, next to Veh. 3981. I observed damage on the top left of the trunk lid that continued vertically down toward the left rear brake light. There was no damage to the brake light housing. There were several, inconsistent, outward "bumps," as if an attempt to "pull the dent" was made. Supervisor Stark turned the trunk lid over and pointed out an opening in the trunk lid housing, in the same area where the exterior damage was. I observed inward and outward bumps, numerous scratch marks and paint that appeared to have been chipped away from an unknown tool. I looked at the identical opening on the right interior of the trunk lid housing and the area was void of bumps, scratches and missing paint. I photographed the interior and exterior damage, from various angles and uploaded them to Evidence.com.

I requested Officer J. Bayless-Sakellarios, Traffic Safety Team (TST), to download the Event Data Recorder (EDR) from Veh. 3981. Based on the report data, Officer Bayless-Sakellarios determined there was not a substantial enough impact to the vehicle to trigger the “airbag algorithm” which would initiate the EDR to document/record the event.

I then reviewed Officer Armstrong’s Body Worn Camera (BWC) videos in an attempt to determine when the damage may have occurred. I reviewed calls for service between September 14 and October 25, 2022. On September 18, 2022, Officer Armstrong and Officer Angus are on the scene of a disturbance (CR 02-22-014298). Both of their BWC’s were activated. At 22:40:34 PM, as seen on Officer Angus’ BWC, Officer Armstrong is sitting in her patrol car and Officer Angus is standing at her open driver’s side door. Officer Angus offers to assist Officer Armstrong by retrieving paperwork from his vehicle, a few yards away. As he walks down the driver’s side of Officer Armstrong’s vehicle, toward the trunk, there appears to be an “upward peak” in the trunk lid. Once Officer Angus passes the trunk, he turns around and walks back toward Officer Armstrong’s vehicle. From Officer Angus’ BWC, there is visible damage to the left side of the trunk lid. The damage is in the same location reported to Sergeant Girard. On September 20, 2022, Officer Armstrong responded to a theft complaint (CR 02-22-014384). As seen on Officer Armstrong’s BWC, Officer Armstrong retrieves a Report Request form from her backseat, stands at the left rear quarter panel, and places the form on the trunk, next to the damaged area. The damage to the trunk is visible on Officer Armstrong’s BWC. On October 3, 2022, Officer Armstrong responded to a crash (CR 02-22-015047) as a secondary unit. As seen on Officer Armstrong’s BWC, she walks around the rear of her patrol car. The damaged area of the trunk is visible however, it appears to be less severe. Some of the damage now appears to be pushed out, rather than in. The “peak” that was previously dominant, is no longer there. Based on this information, I was able to determine the damage to Officer Armstrong’s vehicle occurred between September 14 and September 18, 2022 and an attempt to repair/minimize the damage was made prior to October 3, 2022.

During this investigation, it was determined Officer Armstrong failed to activate her BWC on numerous calls for service, as required by Department policy. I reviewed Officer Armstrong’s calls for service between 0000 AM September 14 and 0000 AM September 19, 2022. The shift rosters indicate Officer Armstrong worked 0800-1500 hours on September 14<sup>th</sup> and 15<sup>th</sup>, 2022 and 2200-0800 hours on September 17<sup>th</sup> and 18<sup>th</sup>, 2022. During these four days, according to CAD notes, Officer Armstrong responds to numerous calls for service, during which she made contact with citizens, however only activates her BWC four times. Additionally, she completed two reports in which she documented, “My body worn camera was activated during this call” (02-22-014121 and 02-22-014260). There are no BWC videos uploaded to Evidence.com, associated with those reports. Officer Armstrong responded to the following calls for service during which she failed to activate her BWC:

- Incident #091522-0207 Unsecured Condition Citizen contact (Building search)
- Incident #091522-0472 Trespass Citizen contact
- Incident #091822-0037 Disturbance Citizen contact
- Incident #091822-0076 Stolen Vehicle Citizen contact (Incident report)
- Incident #091822-0125 Noise Complaint Citizen contact

This list is not inclusive of all the calls for service Officer Armstrong was dispatched to, responded to, or was cancelled prior to arriving. Several of the calls she responded to either required no citizen contact or she was unable to locate the source of the complaint.

#### **INTERVIEW: Officer J. Poirot**

On December 14, 2022, I notified Officer Poirot of the Internal Affairs investigation and schedule an interview for that afternoon. I read Officer Poirot the Witness Officer's Admonition and a recorded interview was completed. Officer Poirot currently works in the Gainesville Police Department's Logistic Services Unit and is supervised by Sergeant Girard.

Officer J. Poirot issued Veh. 3981 to Officer Armstrong on September 14, 2022. He completed a Gainesville Police Department (GPD) Pre-Vehicle Assignment Inspection form and noted there was no damage to the vehicle other than "normal wear for a vehicle this age." Officer Poirot explained that when issuing a vehicle he walks around the vehicle with the officer the vehicle is being issued to. Together, they make sure the vehicle is clean and everything is working. If something needs to be done, Officer Poirot will make a note. He noted on the form for Veh. 3981, that a new battery was needed. He said that Officer Armstrong was responsible for taking the vehicle to City of Gainesville Fleet Maintenance to have the battery replaced.

Officer Poirot also makes note of any damage to the vehicle. He said that older cars will have some scratches on them. On Veh. 3981, he indicated "normal wear for a vehicle this age" meaning it only had scuffs or scratches. Officer Poirot explained he looks for dents and any damage "bigger than a walnut." Officer Poirot said that when the officer signs the bottom of the vehicle inspection form they are in agreement of the damage assessment and take responsibility for any future damage and maintenance.

#### **INTERVIEW: Sergeant S. Girard**

On December 14, 2022, I notified Sergeant Girard of the Internal Affairs investigation and schedule an interview for that afternoon. I read Sergeant Girard the Witness Officer's Admonition and a recorded interview was completed. Sergeant Girard currently works in the Gainesville Police Department's Logistic Services Unit and oversees the issuance and maintenance of fleet vehicles. Sergeant Girard stated he received an email from Fleet Operations notifying him of the damage to Veh. 3981 and requested a report so they could repair the vehicle. Sergeant Girard said there was no documentation of any notification/report of any damage to this vehicle prior to this notification from Fleet Operations.

I showed Sergeant Girard a photo of the damage to the truck of Veh. 3981. Sergeant Girard said that had vehicle 3981 been returned to him with the damage observed in the photo, he would not have issued it. He said he would have taken it to the barn for repair. He confirmed that when the officer signs the bottom of the vehicle inspection form they are in agreement of the damages noted and take responsibility for any future damage and maintenance.

**INTERVIEW: Fleet Operations Manager P. Stark Jr.**

On March 2, 2023, I made phone contact with Mr. Stark, Fleet Operations Manager. I met Mr. Stark at his office on March 9, 2023 at 0945 AM. I read the Witness Admonition and a recorded interview was conducted.

Mr. Stark recalled Veh. 3981 being brought to Fleet Maintenance. He accessed the work order on his computer and noted the vehicle had been brought in for preventative maintenance on October 25, 2022 at 0950 AM. The work order noted that Officer Armstrong was to be contacted once the maintenance had been completed. Service Writer, Craig King, entered the following complaints, as reported to him by Officer Armstrong: “check engine light is on, skipping/sputtering runs poorly, officer smells gasoline from inside the vehicle.” As part of the “drop off” procedure, prior to any vehicle maintenance occurring, a service writer looks over the vehicle and documents any damage. Mr. King added the following notes to the work order: “[drivers] door panel is coming apart, damage to left side of trunk lid.” Mr. Stark could not specifically recall who notified him of the damaged trunk, but believed it would have been a technician or service provider. That day, Mr. Stark was included in an email reporting the damage to Sergeant Girard.

I showed Mr. Stark photos of the rear of Veh. 3981 that were captured from BWC video on September 18, 2022. Mr. Stark could clearly see the damage on the “left upper corner of the trunk lid.” He said the damage to the trunk in the photos was similar, in location, to the damage when it was brought in on October 25, 2022, but “looked a little different once it got to the facility.” Mr. Stark then accessed the photos Fleet Operations took of the trunk when it was brought in. Mr. Stark said the damaged area had “multiple dents facing outward and tooling marks where someone had tried to tap this dent back out.” The tooling marks he referred to were inside the trunk, behind the exterior damage. When I asked if he noticed anything else about the vehicle or damage in that area, Mr. Stark stated, “It’s, it’s just very obvious that somebody tried to work this back out with some type of tooling, hammer, chisel, screwdriver, something of that nature.” Mr. Stark said that he would not be able to determine a timeframe as to when the damage happened.

Mr. Stark advised they were able to replace the damaged trunk with the trunk lid from a patrol car no longer in use. Therefore, no cost was associated with repairing the damage. However, had they repaired the trunk lid, the cost would have been approximately \$1200.

**INTERVIEW: Officer E. Armstrong**

On March 15, 2023, I emailed Officer Armstrong notifying her of the Internal Affairs investigation. On March 21, 2023, I provided her with a disc containing the IA investigatory material. On March 29, 2023, at 1000 AM, I interviewed Officer Armstrong. Fraternal Order of

Police Union Representative, Corporal S. Bertzyk and Internal Affairs Investigator, Sergeant Leah Hayes were also present. Officer Armstrong was provided and signed the Garrity Warning and Officer's Bill of Rights forms. Officer Armstrong said she reviewed the information she was provided and had an independent recollection of the incident. I read the Subject Officer Admonition and a recorded interview was conducted.

Officer Armstrong stated she recalled being issued Veh. 3981 and understood, when she signed the Pre-Vehicle Assignment Inspection form that she was agreeing with the documented condition of the vehicle. I asked Officer Armstrong who made her aware of the damage to Veh. 3981 and she responded that she noticed the damage, prior to receiving Sergeant Girard's email, but did not recall the specific date when she observed it nor how the damage happened. She said the damage was not causing any mechanical issues to the vehicle and it "seemed to be cosmetic." Officer Armstrong said she checked the tail light and it seemed "fine," so she "kept working." She said that after noticing the damage, she did not report it to a supervisor. I asked Officer Armstrong if she notified Sergeant Girard and she replied, "I did, after I turned the car into the barn (Fleet Operations) to get service. I did not report the dent to the barn or prior to me putting it into the barn for the engine issues, and then Sergeant Girard emailed me. I said, 'yeah, I know that there was a dent. I don't know how it got there.'" Officer Armstrong said Sergeant Girard requested she submit a Damaged Property incident report, which she completed on October 28, 2022. I clarified with Officer Armstrong that Sergeant Girard contacted *her* about the damage that she did not notify him, as she said she had. She confirmed that she did *not* notify Sergeant Girard of the damage, he emailed her.

Officer Armstrong stated that prior to taking Veh. 3981 to Fleet Operations, she attempted to "take the dent out, myself." Officer Armstrong then read the following prepared statement: "I understand the damage to the car occurred while the car was assigned to me. I don't know how it occurred but understand I should have reported it as soon as I noticed it. I noticed the damage for the first time on an unknown morning in my driveway. Initially I didn't do anything. Once others on shift began to poke fun at the dent, I wanted to fix it. Instead of reporting it, I attempted to fix it. I was not trying to hide that it had occurred but did not want to turn my car into the barn for a cosmetic issue. Our cars take so long to come back. I waited until the car began to have engine and a gas issue to turn over to the barn. I understand this was the wrong course of action and will not do it again. Sincerely, Erin Armstrong 03/29/23" I photocopied the statement and added it to this case file.

When asked why she did not complete a report or notify a supervisor, Officer Armstrong stated, "I really, just, have no reason." She went onto explain that she was working "night shift" at that time and working a lot of hours. Officer Armstrong acknowledged she should have reported the damage so Fleet Operations could repair the trunk, but added she really did not want to be without a car for the "cosmetic issue" so she waited. Officer Armstrong said she should have reported it "from the beginning" and she could have asked if the repair could wait, because she did not want to be without a car. When asked if she forgot to tell Fleet Maintenance personnel about the

damage, Officer Armstrong said, “I didn’t forget. I just, at the time, I just thought ‘it’s a cosmetic dent, it’s not effecting the capability of the car to drive or maneuver in a sense.’ I just, I just didn’t say anything.” She said she was “neglectful” and “did not do what I should have done, in reporting it.”

Officer Armstrong stated she did not know when the damage occurred but that she noticed it approximately 2 weeks after being issued the vehicle. Officer Armstrong said she observed the dent from the inside of the trunk and, “In my mind at the time, I was like, oh, I bet I could probably just pop it out and then it, you know, wouldn’t be a big deal.” She then added that it was a “stupid” decision and it was a big deal. She said she used a mallet and round wooden “dowel” to hammer out the dent from the inside. Officer Armstrong said no one assisted in her attempt to fix the dent. She could not recall when she attempted to repair the damage. When asked why she tried to repair the damage, Officer Armstrong said she thought the dent would “pop out” and it wouldn’t look so bad. She said that at the time, she did not think about the Department policy regarding personally repairing damage to City of Gainesville vehicles.

Officer Armstrong stated that as a result of a crash that happened prior to this incident, other officers were teasing her about the damaged trunk. Officer Armstrong said it wasn’t her intent to hide the damage. I asked Officer Armstrong if she attempted to fix the damage because she was concerned about being disciplined, due to the crash she had been involved in, she replied, “I didn’t not report it because I was in fear of getting in trouble.”

Officer Armstrong said she did not tell anyone about the damage. She did not know if any other officers reported the damage to a supervisor and stated, “Everybody on shift saw the dent, my supervisor saw it. I was driving around with a dent for the longest time and I tried to fix it and it looked worse.”

Officer Armstrong believed the damage to the trunk was such that had she been in the vehicle at the time, she would have known she struck something. Officer Armstrong said she checked the exterior cameras of her residence but was unable to locate a timeframe of when the damage may have happened and, therefore, does not believe the damage occurred at her residence.

As it relates to the Body Worn Camera usage, Officer Armstrong was able to clearly articulate when the BWC should be activated. When asked why she responded to the calls for service previously noted, without activating her BWC, Officer Armstrong said she thought she had it on for a few of the mentioned calls for service and “I should have.” I asked Officer Armstrong why, in two reports without BWC video, she noted, “My body worn camera was activated during this call?” She responded, “Out of habit, a typing habit.”

#### **INTERVIEW: Sergeant S. Sweeting**

During her interview, Officer Armstrong stated her supervisor noticed the damage. Sergeant Sweeting was Officer Armstrong’s supervisor at the time of this incident. On April 4, 2023, I emailed Sergeant Sweeting notifying him of the Internal Affairs investigation. On April 5, 2023,

I provided him with a disc containing the IA investigatory material. Sergeant Sweeting waived his opportunity to review the material and agreed to be interviewed without Union representation. Internal Affairs Investigator, Sergeant Leah Hayes, was present. Sergeant Sweeting was provided and signed the Garrity Warning and Officer's Bill of Rights forms. Sergeant Sweeting said he had an independent recollection of the incident. I read the Subject Officer Admonition and a recorded interview was conducted.

Sergeant Sweeting stated he was not aware of the damage to Officer Armstrong's vehicle. He explained it was a "running joke" on shift that Officer Armstrong had a "junky" car and always had one problem or another with the vehicles she's assigned, however the jokes were not about the specific damage documented in this report. Sergeant Sweeting said Officer Armstrong did not report the damage to him. He explained that he became aware of the damage when Sergeant Girard spoke with him, while at the Public Safety BBQ on October 27<sup>th</sup> or 28<sup>th</sup>, 2022. Sergeant Sweeting said he then spoke with Officer Armstrong to ensure she completed the requested report. Sergeant Sweeting recalled Officer Armstrong telling him she did not know how the damage occurred, but stated that she did not tell him she attempted to fix the damage.

Sergeant Sweeting stated he only saw the pictures Fleet Operations staff took of the damage. He did not see the damage prior to Officer Armstrong taking the vehicle to Fleet Operations. He added that had he seen the damage prior to being notified by Sergeant Girard, he would have instructed Officer Armstrong to complete a report.

## **CONCLUSION**

On October 25, 2022, Officer Armstrong left her vehicle (3981) at Fleet Operations for preventive maintenance. Fleet Operations personnel observed damage and reported it to Sergeant Girard, who in turn instructed Officer Armstrong to complete a report. In Officer Armstrong's submitted report, she documents that she did not know when or how the damage occurred. She did not document her attempt to fix the damage. Based on my investigation, it was determined, the damage occurred between September 14 and September 18, 2022. At some point, after September 20 and prior to October 3, 2022, Officer Armstrong attempted to fix the damage. Officer Armstrong stated she did notice the damage to the trunk prior to taking the vehicle to Fleet Operations and prior to receiving an email from Sergeant Girard, however did not report the damage to anyone. She said the damage to the trunk was a "cosmetic issue" and, after being teased about it, she tried to repair, or minimize the damage, by hammering out the dent, from inside the trunk.

While conducting the damaged vehicle investigation, it was discovered Officer Armstrong failed to activate her BWC, on several occasions, as required by Department policy. Officer Armstrong responded to several calls for service, during which she made contact with citizens. She completed two incident reports in which she noted that her BWC was activated, however there were no videos in evidence.com, associated with the issued case report numbers.



Under penalties of perjury, I declare that I have read the foregoing document and that to the best of my knowledge and belief the facts stated in it are true. Furthermore, 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#: 22-072

Investigator:



Date: 04.07.23

Investigation revealed a vehicle assigned to Officer Armstrong was damaged between September 14, 2022 and September 18, 2022. Officer Armstrong did not report this damage to her supervisor and/or the individuals responsible for maintaining city vehicles.

Officer Armstrong then attempted to fix the damage on her own and still failed to report the damage to her supervisor and/or individuals responsible for maintaining city vehicles.

On October 25, 2022, Officer Armstrong turned this vehicle into City of Gainesville Fleet Operations for maintenance. City Fleet Operations is responsible for maintenance of all city vehicles including body damage. At that time, she still failed to notify anyone of the damage.

After the damage was discovered by fleet maintenance personnel, Officer Armstrong was directed to write a report as required by policy. In this report, Officer Armstrong states she does not know how or when the damage occurred to the vehicle. She omits that she was aware of the damage before the discovery by fleet maintenance personnel and/or that she attempted to fix it on her own.

In her interview, Officer Armstrong generally stated she did not fail to report the damage due to possible disciplinary consequences but out of her concern regarding the possible amount of time the vehicle could be out of service for a “cosmetic” issue.

In the course of this investigation, it was also discovered Officer Armstrong failed to activate her body worn camera on several occasions. On at least two occasions, she documented in her report that her BWC was activated even though this was not the case. In her interview, Officer Armstrong stated generally she thought her BWC was activated for the calls in question and wrote the statement regarding it being activated in her reports out of habit.

Officer Armstrong failed to report damage to her assigned city vehicle as required by Gainesville Police Department General Order 41.3: Department Vehicles which states, in part and in summary, *Members shall immediately report any damage discovered or incurred during the use of the vehicle to his/her supervisor.*

Therefore the allegation that Officer Armstrong violated City of Gainesville Code of Conduct E-3, Rule 25: *Wanton or willful violation of statutory authority, rules, regulations, or policies is SUSTAINED.*

Officer Armstrong will receive written instruction and cautioning in the form of an Employee Notice and a 3 day (24 hour) suspension without pay.

Officer Armstrong failed to activate her BWC on several occasions as required by Gainesville Police Department General Order 40.14: Body Worn Camera Video Systems (BWC) which states, in part and in summary, *Members issued BWC equipment shall record all contacts with citizens in the performance of official duties.*

Therefore the allegation that Officer Armstrong violated City of Gainesville Code of Conduct E-3, Rule 13: *Productivity or workmanship not up to required standard of performance* is **SUSTAINED.**

Officer Armstrong will receive written instruction and cautioning in the form of an Employee Notice.

Under penalties of perjury, I declare that I have read the foregoing document and that to the best of my knowledge and belief the facts stated in it are true. Furthermore, 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. <a href="#">112.532</a> and <a href="#">112.533</a> , Florida Statutes.		
IA#:	22-072	
IA Commander:	<u>T. DORST</u>	Date: <u>04-17-2023</u>
Bureau Commander:	<u>J. Pyland</u>	Date: <u>4/17/23</u>
Chief Inspector:	<u>James Munk 407</u>	Date: <u>04-17-23</u>
<u>Acting</u> Assistant Chief:	<u>Paris Owen</u>	Date: <u>4/17/23</u>
Chief:	<u>[Signature]</u>	Date: <u>4/17-23</u>