



Brevard County Sheriff's Office
Titusville, Florida

MEMORANDUM

DATE: April 28, 2016
TO: Chief Deputy Doug Waller
FROM: Agent Kraig Hupfer, Staff Services Unit
RE: Command Inquiry 2016-CI-004

D. Waller
151
5/3/16
*Card with
names
*Schedule RE-
SEPARATION
HARRILL

I. Summary

On March 30, 2016, at approximately 1900 hours, Deputy Tyler Harrell was at his residence after completing canine training in the Merritt Island area. Deputy Harrell was in his back yard accompanied by BCSO K-9 Linck and his personal pet canine. Deputy Harrell has a large pond behind his residence and he was allowing the canines to run free and play in the back yard near the water. As the canines were playing, Deputy Harrell observed an approximately ten foot long alligator in the water near the shore line. The alligator began to swim towards the canines in an aggressive manner at which point Deputy Harrell recalled both canines. Deputy Harrell secured K-9 Linck in his kennel and then he went to secure his personal pet canine at which point he was unable to locate her. Deputy Harrell retrieved his BCSO assigned duty rifle from his patrol vehicle and he returned to the back yard area to search for his personal canine. Upon returning to the water line, Deputy Harrell again observed the alligator near the same location in the water. Fearing that his personal pet canine was in danger, Deputy Harrell attempted to dispatch the alligator by firing at it twice with his BCSO assigned rifle. The alligator submerged under water and resurfaced on the far end of the pond approximately ten minutes later. It was unknown at the time if the alligator sustained any injuries from the rifle rounds. Shortly after firing at the alligator, Deputy Harrell located his personal pet canine. Deputy Harrell contacted Sergeant Green to report the discharging of his BCSO assigned rifle. Sergeant Knepp responded to Deputy Harrell's residence to complete a supervisory overview of the incident. (BCSO case number 2016-00108636) Deputy Harrell also contacted the Florida Fish and Wildlife Commission to report the alligator incident.

On April 04, 2016, Sergeant Knepp authored a Supervisory Overview memorandum to Chief Deputy Doug Waller via the Chain of Command which summarized the incident.

On April 05, 2016, Chief Deputy Doug Waller authorized an Administrative Investigation of this incident.

On April 06, 2015, the Staff Services Office received this case for further investigation.

II. Possible Policy Violations:

- *400.00 General Professional Responsibilities*
- *400.04 Substandard Performance*
- *400.06 Compliance with Law & Regulation*
- *500.76 Response to Resistance*

III. Witness Interviews:

Sergeant Michael Green Special Operations – Canine Unit

On April 11, 2016, Agent LaRoche and I conducted a sworn, audio-recorded interview with Sergeant Green at the Sheriff's Office Fleet Maintenance Shop. Sergeant Green advised that, on March 30, 2016, he was contacted by Deputy Harrell who stated that he had utilized his BCSO assigned rifle to attempt to kill an alligator. Deputy Harrell stated that he was at his residence playing with K-9 Linck and his personal canine in the shallow water of a pond located to the rear of his property. As he was retrieving the canine toys from the water, he observed an approximately ten foot alligator in the immediate vicinity. When the alligator started to move towards K-9 Linck in an aggressive manner, Deputy Harrell had both canines retreat from the water. He then retrieved his BCSO assigned rifle at which time he attempted to shoot the alligator. Sergeant Green told Deputy Harrell that a report needed to be completed to document the incident. After notification of the discharging of an agency firearm was made to Commander Purden, Sergeant Green was directed to have Sergeant Knepp respond to Deputy Harrell's residence to complete a supervisory overview of the incident.

On Saturday, April 02, 2016, Sergeant Green attempted to locate Deputy Harrell's case report to complete a supervisory review and approval of the report. When he could not locate the report in the New World report system, Sergeant Green contacted Deputy Harrell to inquire about the status of the report. Sergeant Green advised that Deputy Harrell never sought supervisory approval from him to allow a delay in the submission of the case report. Deputy Harrell told him that he had been doing yard work at his residence and he sustained an injury to his eye which required him to go to the emergency room to seek treatment. Sergeant Green told Deputy Harrell that he needed to complete his report at which time Deputy Harrell acknowledged that he would get it done. Sergeant Green attempted to review the report on Sunday, April 03, 2016 and again on Monday, April 04, 2016 with negative results. Sergeant Green contacted Deputy Harrell

that evening to reiterate that his report needed to be completed and to notify him (Sergeant Green) when it was uploaded into the New World report system. On Tuesday, April 05, 2016, at approximately 0753 hours, Deputy Harrell texted Sergeant Green to advise him that the report had been submitted and he apologized for it being late.

Corporal Jerry Shealy
Special Operations – Canine Unit

On April 13, 2016, I conducted a sworn, audio-recorded interview with Corporal Shealy at the IMOC facility in Port Canaveral. Corporal Shealy stated that, on March 30, 2016, at approximately 1900 hours, Deputy Harrell contacted him in an upset manner stating that he was giving his dogs a break when an alligator went after them. Corporal Shealy stated Deputy Harrell was not panicking but he knew by the tone of his voice that something was definitely wrong. When Deputy Harrell told him that he couldn't find his dog, Corporal Shealy immediately thought that he was referring to BCSO K-9 Linck. Thinking that K-9 Linck was in immediate peril, Corporal Shealy advised Deputy Harrell that if the alligator was going after the dog to shoot it. Corporal Shealy stated that he lived near Deputy Harrell so he responded to his residence. As he arrived at Deputy Harrell's residence, Corporal Shealy heard gunshots from the rear of the property. Deputy Harrell stated that he missed the alligator at which time Corporal Shealy inquired of K-9 Linck's status. Deputy Harrell told him that he was able to secure K-9 Linck but that it was his personal canine that he was unable to locate. A short time later, Deputy Harrell's personal canine returned from an adjacent property. After accounting for both dogs, Corporal Shealy then directed Deputy Harrell to contact Sergeant Green to apprise him of the incident. Corporal Shealy stated he also observed the alligator and it appeared that the alligator did not have any human fear as it actually moved closer to the shore line as they were standing there. Corporal Shealy also provided Deputy Harrell the contact number for the Florida Wildlife Commission to report the alligator incident. Due to the exigent threat no longer being present, the Florida Wildlife Commission advised them that they would not respond to Deputy Harrell's residence until the following date during normal business hours. Sergeant Knepp then arrived on scene to complete an overview report of the incident. Corporal Shealy stated that Deputy Harrell did not seek permission from him to delay the submission of his report.

Sergeant Jason Knepp
East Precinct – Road Patrol

On April 13, 2016, Agent Geweniger I conducted a sworn, audio-recorded interview with Sergeant Knepp at the East Precinct in Merritt Island. Sergeant Knepp stated that, on March 30, 2016, at approximately 1930 hours, he was contacted by Sergeant Green in reference to Deputy Harrell discharging his BCSO assigned rifle at an alligator. Sergeant Green told him that Commander Purden requested that the on-duty shift supervisor respond to Deputy Harrell's residence to complete an overview report of the incident.

Upon his arrival, Sergeant Knepp made contact with Deputy Harrell and Corporal Shealy in the back yard of the residence. Deputy Harrell told him that he was in the shallow water with K-9 Linck and his personal canine retrieving some canine toys that K-9 Linck had dropped in the water. At that time, Deputy Harrell observed a large alligator swimming towards him and the two canines. Deputy Harrell retreated with K-9 Linck and he secured him in his residence. Deputy Harrell then returned to the pond with his BCSO assigned rifle to search for his personal canine where he again observed the alligator near the water line. When he couldn't locate his personal canine, Deputy Harrell assumed that the alligator had attacked his personal canine so he discharged his rifle two times at the alligator. The alligator submerged underwater and it reappeared a short time later further out in the pond. Deputy Harrell advised Sergeant Knepp that both shots had missed the alligator. At some point after discharging his BCSO assigned rifle, his personal canine returned to the residence. Sergeant Knepp stated he also observed the alligator in the pond that evening and that the alligator did not appear to have any fear of human presence. Sergeant Knepp told Deputy Harrell that a case report needed to be completed to document the incident. When Sergeant Knepp returned to duty on April 04, 2016, to complete his overview of the incident, Deputy Harrell's case report still had not been submitted for approval. Deputy Harrell did not request permission from him to delay the submission of his case report.

Deputy Tyler Harrell
Special Operations – Canine Unit
Subject Interview

On April 20, 2016, Agent Geweniger and I met with Deputy Harrell at the Brevard County Sheriff's Office Staff Services Office to conduct a sworn audio-recorded interview with him. Once Deputy Harrell reviewed the case file to his satisfaction, I initiated a sworn interview with him. Prior to asking Deputy Harrell any questions, he was read the Administrative Investigation Warnings, which he acknowledged he understood and signed. Deputy Harrell also acknowledged he understood he could have a representative with him during the interview but chose not to. I explained to Deputy Harrell the nature of this investigation and asked him to explain what occurred at his residence on March 30, 2016. The following is a summary of the interview:

On March 30, 2016, Deputy Harrell had returned home after completing training with his BCSO K-9 Linck that evening. After returning home, Deputy Harrell let K-9 Linck and his personal canine out into the back yard to play. While playing with the canines, K-9 Linck dropped his toy in the shallow water. Deputy Harrell went into the water to retrieve the toy at which time he observed an approximately ten foot alligator in the water about ten feet away from where his canines were playing in the shallow water. Prior to this incident, Deputy Harrell advised that he had only seen a couple of small alligators in the pond and that this was the first time he had ever seen an alligator of this size in the area. When the alligator began to move towards the shore in an expedited manner,

Deputy Harrell believed the alligator was about to ambush one of the canines at which time he recalled them both. He returned to his residence with K-9 Linck and he secured him in his kennel. After securing K-9 Linck, Deputy Harrell realized that his personal canine did not return to the residence with him. Deputy Harrell described his personal canine as a small dog weighing approximately thirty pounds and that she was a highly trained and obedient dog. When his personal canine did not return to the residence with him, Deputy Harrell believed that the alligator had attacked her. As he drove his BCSO vehicle around to the rear of his property, he called Corporal Shealy and told him that he thought that the alligator had his dog. Deputy Harrell retrieved his BCSO assigned rifle and as he exited the vehicle he observed the alligator swimming away through some vegetation. Deputy Harrell stated that he observed the entire body of the alligator except for its head swimming away from the shallow water. Due to the manner in which the alligator was swimming away, and the fact he couldn't locate his normally obedient canine, Deputy Harrell believed that the alligator had his personal canine in its mouth and was now taking her out into deeper water. Deputy Harrell stated that he had an extremely close bond with his canine and that he would do anything he believed might save her. Deputy Harrell attempted to shoot the alligator but he missed on his first shot. Deputy Harrell took a second shot at which point the alligator submerged underwater. By this time, Corporal Shealy arrived at his residence. After a short period of time, Deputy Harrell's personal canine returned back to their location.

Sergeant Knepp soon arrived at his residence to complete the overview of the incident. Deputy Harrell stated the alligator re-appeared further out in the pond but it moved closer towards the shore in some vegetation as they were talking. Deputy Harrell also made contact with the Florida Wildlife Commission to advise them of the alligator incident. He was told that due to the alligator no longer being an immediate threat, they would not respond that evening but they would dispatch an officer and/or trapper out during normal business hours. An alligator control agent responded to Deputy Harrell's residence and removed an approximately nine and a half foot alligator from the pond. A Florida Wildlife Commission officer later told Deputy Harrell that a neighbor had been feeding the fish and alligators in the pond which he believed led to the alligator not having any fear of human presence.

I asked Deputy Harrell why he did not put in his report some of the details of what he just described in this interview. At the time of this incident, Deputy Harrell stated that he did not believe he did anything wrong and he thought it was more of a "cut and dry" incident. He also knew that his report was late and in his haste to submit the report for approval he left out details that he should have included. Deputy Harrell knew that any discharge of a firearm incident was reviewed however he didn't realize the scrutiny in which this type of incident garnered. Deputy Harrell stated he understood the importance of writing a detailed report and he described a drug arrest scenario in which he would normally take the time to properly and more accurately document every detail of that type of incident in a report. However, he now realized that he should have initially submitted a more detailed report.

IV. Other Investigative Efforts

An audit of Deputy Harrell's New World usage was conducted by the IT Unit of the Brevard County Sheriff's Office. The audit revealed Deputy Harrell did not submit his case report for approval until Tuesday, April 05, 2016, at 07:51 a.m.

Florida Statute 379.409, a copy which is included in this report, cites that is unlawful to intentionally kill or attempt to kill an alligator unless authorized by the Fish & Wildlife Commission. A violation of this statute constitutes a felony of the third degree.

Florida Fish & Wildlife Commission initiated a call for service in reference to a nuisance alligator on March 31, 2016. (FWC C/R#32016-386812) A copy of the Nuisance Alligator Harvest Permit is included in this report.

Deputy Harrell's residence is located on [REDACTED] in a rural sparsely populated neighborhood. His property is an elongated approximate one acre lot and his residence is located next to a lake preserve. The residence itself is approximately seventy-five yards from the water and the property is not fenced. A google overhead picture of Deputy Harrell's residence and property was included in Sergeant Knepp's overview report.

V. Recommendation

March 30, 2016, Deputy Tyler Harrell discharged his BCSO assigned rifle in an attempt to dispatch an alligator. Deputy Harrell was playing with his BCSO K-9 Linck and personal canine in the shallow water of a pond in the rear of his property when he observed a large alligator aggressively moving towards his canines. Deputy Harrell recalled both canines and he was able to secure K-9 Linck in his kennel. When he realized his personal canine did not return to the residence with him, Deputy Harrell drove his patrol vehicle to the back of his property. He then retrieved his BCSO assigned rifle. In his report, Deputy Harrell stated he feared that his personal canine had been attacked so he attempted to shoot at the alligator. His case report did not identify any specific immediate threat to himself or his canine. During his subject interview, Deputy Harrell described the alligator as swimming away from shore in a manner in which he believed it had possession of his canine within its mouth. In desperation to save his personal canine, Deputy Harrell attempted to shoot the alligator. Deputy Harrell's verbal account of the incident still would not have justified the deadly use of force against an animal. If the alligator had truly had the canine within its mouth, it would have already been too late for Deputy Harrell to recover it from the alligator's possession. Deputy Harrell stated he was familiar with the Florida Statutes as it pertains to alligators.

In explaining the discrepancies in his report and subject interview, Deputy Harrell stated that he should have taken the time to document the incident in a more thorough and accurate manner in his original report. Furthermore, Deputy Harrell realized that his case report was late and believing that the shooting was justified he did not put enough effort

of articulating a complete and detailed report in his haste to get it submitted. He understood that all agency discharge of firearm incidents are reviewed but, because it was an animal related shooting, he did not realize it would be scrutinized as much by supervision. By his own admission, he failed to recognize the importance of utilizing and documenting a deadly force option even if it was against an animal and not a person.

Deputy Harrell admitted to submitting his report past the allotted time dictated by policy. He stated that at no time did he seek nor receive permission from any of his supervisors to allow a delay in the submission of his report. Sergeant Knepp told him the night of the incident that he would be back on duty the following Monday to complete his supervisory overview so Deputy Harrell felt he would be able to delay the completion of his report until that date. Deputy Harrell was off-duty at the time of incident however he worked the following day on March 31, 2016 and then returned to his scheduled shifts on April 04, 2016 and April 05, 2016. When Sergeant Green contacted him April 02, 2016, he realized that he needed to complete the report as soon as possible. Ultimately, Deputy Harrell admitted that he just procrastinated and he did not complete his report as required until April 05, 2016.

As detailed above, this Administrative Investigation determined that Deputy Harrell failed to provide a professional standard of performance of using and documenting a deadly use of force incident involving an alligator. Deputy Harrell's case report did not identify any specific or immediate imminent threat towards himself or his canines. During his subject interview, Deputy Harrell's account of the incident was more detailed however the details of the interview still did not meet the use of force standard of deadly force. Based on the facts set forth in this administrative investigation, I recommend the following:

That the allegation against Deputy Harrell that he violated **400.00 General Professional Responsibilities** be closed as **"Sustained."**

That the allegation against Deputy Harrell that he violated **400.04 Substandard Performance** be closed as **"Sustained."**

That the allegation against Deputy Harrell that he violated **400.06 Compliance with Law & Regulation** be closed as **"Sustained."**

That the allegation against Deputy Harrell that he violated **500.76 Response to Resistance** be closed as **"Sustained"**

VI. Enclosures

- Memorandum from Sergeant Knepp to Chief Deputy Doug Waller titled "Supervisory Overview ref. BCSO Case Number 2016-00108636."
- Copy of case report from Deputy Tyler Harrell


- Memorandum from Chief Deputy Doug Waller to Commander Donn titled "Authorization for Administrative Investigation."
- Notice of Administrative Investigation
- Administrative Investigation Warning

VII. Oath

I, Agent Kraig Hupfer, 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.

Signed  210
Agent Kraig Hupfer, ID 210

Sworn to and subscribed before me, the undersigned authority, this 28th day of April, 2016.

Signature 
NOTARY PUBLIC/LAW ENFORCEMENT OFFICER
IN PERFORMANCE OF OFFICIAL DUTIES





Brevard County Sheriff's Office
Titusville, Florida

MEMORANDUM

DATE: May 10, 2016
TO: Deputy Tyler Harrell ID#1440
FROM: Chief Deputy Doug Waller
RE: Final Action
Administrative Investigation 2016-CI-004

A TRUE COPY
TIME 1400 hrs .M.
DATE 5-11-16
BREVARD COUNTY SHERIFF'S OFFICE
Received By:
Signature of Deputy Tyler Harrell ID#1440
Served by:
Signature of Agent/Deputy 32

Administrative Investigation 2016-CI-004 is now closed. The final action regarding this inquiry is the determination of sustained charges and the application of appropriate corrective action.

After a review of the administrative investigation, and in consideration of your input at your pre-deprivation hearing today, I have determined that your actions on March 30, 2016, were in violation of the established policies and standards of the agency. Specifically, your attempt to dispatch an alligator while it no longer posed an immediate threat to yourself or your canines raised concerns about your decision making skills. As you acknowledged during your pre-deprivation hearing, you recognized that your actions were not appropriate given the circumstances, based upon emotion, and that you should have taken alternative measures to properly remove the alligator from your property. During your hearing, you were respectful to the concerns of the agency and accepted accountability for your actions, assuring me that this type of behavior would not occur again in the future. I also took into consideration the input from Commander Greg Purden and Alan Moros relating to your overall effective job performance. Your willingness to accept responsibility has mitigated the corrective action in this matter.

As a result of my review, I am sustaining the following policy violations:

- 400.00 General Professional Responsibilities
- 400.04 Substandard Performance

The other two violations (400.06 Compliance with Law & Regulation and 500.76 Response to Resistance) that you were noticed on will be consolidated into these violations.

The corrective action for this incident will be a **ten hour (10) suspension without pay**. Barring a Civil Service Appeal or Collective Bargaining Grievance of the proposed disciplinary action, the unpaid suspension will be served at the discretion of Commander Purden.

If you file a Civil Service Appeal or Collective Bargaining Agreement grievance in regards to the proposed disciplinary action, the period of unpaid suspension will be postponed until the appeal or grievance process is completed.

As provided by the Civil Service Act, Chapter 83-373, Laws of Florida and the Collective Bargaining Agreement with the Coastal Florida Police Benevolent Association, and the Brevard County Sheriff's Office, you may appeal to the Civil Service Board or file a disciplinary grievance to this action. To appeal or grieve this discipline, you must file a petition for review within ten (10) days of receipt of this memorandum. The petition for review shall be filed by United States Mail, registered, return receipt requested, or in person with **Manager Lisa Gillis**, Human Resources, 700 S. Park Avenue, Titusville, FL 32780. A copy of any petition should also be directed to my attention at the same address.

You are forewarned that any subsequent violations could lead to progressive discipline up to, and including, termination of your employment.

Cc: Commander Greg Purden
Commander Alan Moros
CFO Greg Pelham
H.R. Manager Lisa Gillis
Copy to file 2016-CI-004