



Brevard County Sheriff's Office
Titusville, Florida

*D. L. 155
2/15/17
* Concern with
Findings*

To: Chief Deputy Doug Waller

From: Agent Linda McLaughlin, Staff Services Unit

Date: February 15, 2017

Redacted per F.S. 119.071(4)(d)2a(II)

Re: Command Inquiry 2016-CI-038
Deputy Richard Lemons

I. Summary:

On December 26, 2016, a message was received via the Sheriff's Office Facebook page from a female who alleged that her husband had hit her, included with the message were two photographs of what appears to be bruising and a telephone number.

Deputies made contact with the female who was then identified as [REDACTED], the wife of Deputy Rich Lemons. The initial responding deputies reported that [REDACTED] was not overly cooperative as she declined to provide a sworn statement to them about what occurred and after just a short period of time, she asked them to leave her residence. During this initial contact, a surreptitious recording of [REDACTED] was made. During this recording she stated she and her husband had an argument on Christmas Day which led to a physical altercation over a duffle bag. During this contact [REDACTED] was asked whether or not she had been drinking as she appeared intoxicated to some of the deputies, she replied that she had been drinking earlier and she apologized for sending the messages. Rich Lemons was not present during the initial law enforcement response.

This incident was the subject of a criminal investigation conducted by the BCSO Special Victims Unit, at the conclusion of their investigation they forwarded their findings to the State Attorney's Office for review. On February 1, 2017, ASA Linda Barnett completed her review of this incident and determined there was "insufficient evidence" to file any charges in this case. In her notice to the Sheriff's Office, ASA Barnett also noted that [REDACTED] had provided her with a different version of this incident than had been reported to BCSO. [REDACTED] claimed that the bruise to her shoulder was from practicing jujitsu earlier. Mr. Lemons' statement remained consistent that he merely reacted to defend himself and deflect the bag she threw at him.

Based on the initial allegations of battery domestic violence, an Administrative Investigation was authorized.

II. Possible Policy Violations

- 400.00 General Professional Responsibilities
- 400.06 Compliance with Law and Regulation

III. Witnesses

[REDACTED]

[REDACTED] refused to be interviewed for this Administrative Investigation, she was interviewed by Agent Sorokin of the SVU for the criminal investigation. On December 27, 2016, a formal interview with [REDACTED] was conducted by Agent Sorokin from the Special Victims Unit. In a sworn recorded statement she advised the following in substance:

[REDACTED] was angry with her husband for communicating with his ex about child custody issues during their drive to see [REDACTED] family in Coral Springs on Christmas Day. The argument continued as they left Coral Springs to drive home. She stopped and purchased alcoholic beverages which she consumed throughout the evening and continued to argue with her husband. He took it upon himself to sleep in the living room downstairs on an air mattress. At one point, while he was sitting on the air mattress, she came downstairs and asked him about a duffle bag she needed from their trip. She grabbed a similar bag from a nearby closet and threw the bag towards Lemons. He immediately responded by pushing her away, she in turn then fell backwards into the closet doorframe. There was bruising on the back of her shoulder where she hit the doorframe, she stated that these are the photographs she posted to the Sheriff's Office Facebook page.

[REDACTED] stated this is the first time they have ever been physical with each other during an argument, however she didn't believe he was trying to harm her and only reacted to her throwing the bag towards him. When asked about previous arguments, she stated it was usually over the mother of his children. She understands they have children in common, however his ex-wife seems to have a lot of power over him.

As of this interview, [REDACTED] stated she hasn't spoken to her husband and was uncertain where he was staying. This concluded the interview with [REDACTED]

IV. Subject Employee:

Richard Lemons
Deputy Sheriff
Brevard County South Precinct Patrol

Deputy Lemons was interviewed about this incident twice, once for the criminal investigation and once for this Administrative Investigation.

Deputy Lemons interview with Agent Sorokin:

On December 27, 2016, Agent Sorokin interviewed Deputy Lemons at the Brevard County Sheriff's Office Criminal Investigative Services building located at 340 Gus Hipp Boulevard, Rockledge, Florida. In a sworn recording, Lemons stated the following in substance:

He has been married to [REDACTED] since June, 2014. They've been having marital issues for approximately one (1) year. On Sunday, December 25, 2016, a verbal argument occurred between them while they were visiting family in Coral Springs, Florida, over Lemons communicating with the mother of his children.

During the drive back to their residence they stopped at a local gas station where [REDACTED] purchased some alcoholic beverages. After purchasing the beverages she began drinking which continued into the evening. Lemons stated that he knew the situation was going to get out of control so he separated himself and decided to sleep on an air mattress downstairs in the living room. When he went upstairs to get some pillows for his bed [REDACTED] came into the bedroom and began arguing with him again. He then went back downstairs, with [REDACTED] following him. She told him that she would help him pack his clothes so he could leave. She entered a closet that was in the living room near the television he was watching as he sat on the air mattress. Mr. Lemons stated that he saw in his peripheral vision that [REDACTED] appeared to be holding a large object over her head. As she threw the object at him, he instinctively reacted by pushing her away from him and simultaneously deflecting the object from hitting him. [REDACTED] fell back against the door frame of the closet, which possibly caused the bruising to her left shoulder. Lemons stated he had no intentions of harming her. After he realized the object was an empty duffel bag, they separated for the evening.

It was learned during his interview that Lemons left the residence and hadn't returned since the incident occurred. He has been sleeping in his van at rest areas and using the precinct locker room to change and prepare for shift in order to avoid any confrontation with [REDACTED]

Administrative Interview with Deputy Lemons

On January 24, 2017, I met with Deputy Lemons to serve him his "Notice of Administrative Investigation."

On Thursday, February 2, 2017, contact was made with Deputy Lemons and his PBA representative, Al Boettjer, at South Precinct. Prior to asking Deputy Lemons any questions he was given the opportunity to review the case file. He read the reports and

listened to all of the audio statements with exception of his own interview with Agent Sorokin, which he waived the right to review. A copy of the State Attorney's decision to "No file" the case was also provided to Deputy Lemons. He was then read the Administrative Investigation Warnings, which he acknowledged he understood and signed. Lemons also waived the right to be questioned by only one investigator at a time.

The following is a summary of the interview:

After a review of the initial statements, Lemons reiterated that his actions during the incident were in response to a perceived threat from his wife, not an attempt to harm her. He stated that he was merely trying to defend himself and deflect her attempt at striking him.

During this interview, Lemons stated that he and his wife have reconciled to the point of him moving back into their apartment. They have also scheduled counseling through EAP (Employee Assistance Program). When asked if there have been any further instances of them arguing, he stated no. He stated that one of his stipulations for him moving back into their residence was that she doesn't consume alcohol. He added that this hasn't been an issue since he's returned home. [REDACTED] is also seeking personal counseling aside from marriage counseling.

When asked if there was anyone else he felt we needed to interview for this investigation he stated no. Lemons was advised again not to speak about this case to anyone other than his representative while it was still being investigated. This concluded his interview.

V. Summary and Recommendations:

This Administrative Investigation was initiated in response to an alleged Domestic Violence incident between Deputy Rich Lemons and his wife. This incident was the subject of a criminal investigation by Agents from the BCSO SVU Unit. The SVU Unit forwarded their completed report to the State Attorney's Office where it was reviewed for a filing decision. The SAO determined that "there was insufficient evidence to prove a criminal charge based on the facts and circumstances surrounding this incident." The SAO also noted that the alleged victim had provided them with a different account of this incident than she had provided to the BCSO.

During my investigation into this incident I reviewed Agent Sorokin's investigation, as well as the feedback provided by the SAO. I also conducted an additional interview with Deputy Lemons.

During my investigation, I determined that the statements from [REDACTED] and Deputy Lemons regarding this incident are very similar and consistent. They both state that Deputy Lemons was in a seated position when [REDACTED] came over and either threw the duffel bag towards him (her version) or that she swung the bag down towards him (his version). Deputy Lemons stated that he did not immediately recognize what his wife was doing and

he thought he was going to get hit with something so he instinctively pushed her away. They both stated that he pushed her away and that she fell into the door frame. There was no additional strikes or contact reported by either party. Based on the information available, there is no evidence to suggest that Deputy Lemons had violated state law or agency policy. He thought he was defending himself from an attack from his wife who had been drinking and argumentative for some period of time that day.

Based on the facts and statements provided, I recommend the following administrative charges against **Deputy Richard Lemons** to be closed as follows:


Section 400.00, General Professional Responsibilities – “Unfounded”
Section 400.06, Compliance with Law and Regulation – “Unfounded”

VI. Enclosures


- A. Authorization Memo for Case Number 2016-CI-038
- B. Notice of Administrative Investigation
- C. Administrative Investigative Warning
- D. Case Report (CR# 2016-00435608)
- E. Facebook Posts
- F. State Attorney’s Office filing decision (SA#0517M00363)

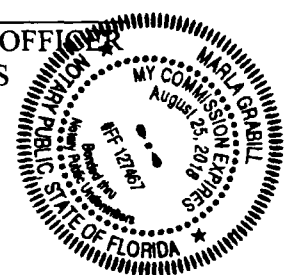
VII. Oath

I, Agent Linda S. McLaughlin, 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  #1225
Agent Linda S. McLaughlin #1225

Sworn to and subscribed before me, the undersigned authority, and this 15th day of February, 2017.

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





Brevard County Sheriff's Office
Titusville, Florida

MEMORANDUM

TO: Deputy Richard Lemons

FROM: Chief Deputy Doug Waller

DATE: February 15, 2017

RE: Command Inquiry
2016-CI-038

D. Waller

A TRUE COPY	
TIME	<u>2:30</u> PM.
DATE	<u>2/16/17</u>
BREVARD COUNTY SHERIFF'S OFFICE	
Received By: Richard Lemons	
<i>R. Lemons 422</i>	
Signature of Employee Served	
Served by:	
<i>Chief Deputy Doug Waller 126</i>	
Signature of Agent/Deputy	

Command Inquiry 2016-CI-038 was initiated in response to allegations that you may have violated Brevard County Sheriff's Office policies and procedures. Based on the investigative report and overview, the allegation that you violated the following General Orders has been determined as:

- 400.00 General Professional Responsibilities "Unfounded"
- 400.06 Compliance with Law and Regulation "Unfounded"

I realize that an administrative investigation can be stressful to the involved employees. However, the need to be responsive to allegations of misconduct makes it imperative that we investigate such allegations in a thorough and professional manner.

I appreciate the patience you have demonstrated while waiting for the investigative results. The investigative report is being provided for your review as an enclosure with this communication.

Attachment:

- 2016-CI-038 Investigative Report

cc: Chief Deputy Doug Waller
Investigative File 2016-CI-038