



Brevard County Sheriff's Office
Titusville, Florida

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To: Chief Deputy Doug Waller
From: Agent Charles LaRoche, Staff Services Unit
Date: June 29, 2017
Re: Administrative Investigation (2017-CI-015)
Deputy Kent Guttebo (ID #634)

I. Summary:

On May 16, 2017, Deputy Kent Guttebo was returning to his residence after completing an off-duty detail. While travelling southbound on A1A in Cape Canaveral, he encountered a bicyclist in the middle of the roadway who was being assisted to his feet by two bystanders. At the time, the male was obstructing traffic as he had fallen over in the center turn lane. Guttebo assisted the male, later identified as Lonnie C. May, out of the roadway and then left the area. The male went over to the front porch area of "Yogini's Liquor Shop" (aka "Yogi's") located at 6879 N. Atlantic Avenue, and sat down. A short time later one of the employees of Yogi's noticed that Mr. May seemed to be having some type of medical issue. BCFR was called to the scene and they transported Mr. May to the hospital where he later passed away from an unknown medical condition, refer to BCSO case #2017-00167310.

Deputy Guttebo did not notify the Communications Center of this incident and he failed to notify any of the on-duty deputies at the Canaveral Precinct.

Furthermore, it is alleged that Deputy Guttebo failed to recognize the immediate need for medical attention and the signs and symptoms Mr. May was displaying. Those indicators would be that Mr. May could not stand up on his own, he fell down in the middle of a busy highway, and had to be assisted by motorists who were passing by. Based on these factors, Mr. May should have been further evaluated.

On Wednesday, May 17, 2017, Chief Deputy Waller authorized an Administrative Investigation be completed.

II. Possible Policy Violations

- CC-3, Mobile Dispatch System
- 200.10 Agency Owned Vehicles
- 400.00 General Professional Responsibilities

- 400.02 Authority of Off-Duty Deputies
- 400.06 Compliance With Law and Regulation

III. Witnesses

Michael Green
Deputy Lieutenant
Brevard County Sheriff's Office

On May 17, 2017, I conducted a sworn, audio recorded interview with Lieutenant Michael Green at the Staff Services office. The following is a summary of that interview:

Green stated that on May 16, 2017, at about 1430 hours, he received a telephone call from "Yogi", who owns Yogini's Liquor Shop in Cape Canaveral. Yogi called Green and asked him to send deputy to his store to check on a person that passed out on the front porch of his business. Green informed Yogi that he was not on duty and if it was an emergency, Yogi should call 911. Green stated that Yogi did not want to make a big deal of it and asked that he send a deputy. Yogi told Green that there was a deputy out with the male minutes before but he had left the area, he added that he did not know who the deputy was.

Green stated he hung up with Yogi and called the on-duty supervisor, Sergeant Greg Smith. Green told Smith what Yogi told him and Smith stated he would send someone.

Green stated that shortly after he hung up with Smith, Yogi called him back and asked if someone was coming. Green told him that a deputy was on the way but if the situation was that bad, Yogi should have called 911 instead of him. Green stated that Yogi insisted that it wasn't that bad and he didn't want to get 911 involved.

A few minutes later, Smith called Green again and asked if Yogi told him there was a deputy out with the male before Yogi made his first call. Green stated that Yogi is difficult to understand sometimes but that is what he thought he said. Smith told Green that the male that Yogi called about was in bad condition and may not survive.

A few minutes later, Lieutenant Don Barker called Green to ask him about the deputy that responded initially. Barker thought Yogi possibly knew who the deputy was and did not want to get him in trouble. Barker asked Green to call Yogi back and ask him if he would identify the deputy. Green stated he called Yogi back but Yogi said he did not recognize the deputy.

Green stated that his only involvement in this matter was via the telephone and he never responded to the scene as it was his regularly scheduled day off.

Don Barker
Deputy Lieutenant
Brevard County Sheriff's Office

On May 25, 2017, I conducted a sworn, audio recorded interview with Lieutenant Barker at the Canaveral Precinct. The following is a summary of that interview:

Barker stated that he was in a meeting at the Badging Office in Port Canaveral on May 16, 2017 when he received a telephone call from Sergeant Greg Smith. Barker stated that Smith stated I need you here (Yogi's Liquor Shop), right now. Barker stated this is out of normal character for Smith so he knew it must be something serious. Barker left his meeting and responded to Yogi's.

After Barker arrived at Yogi's, he was briefed on the situation and the medical condition Mr. May was in. Barker stated he was shown a cell phone photograph that a bystander took of the initial deputy while he was talking to the male, Barker stated the deputy resembled Deputy Kent Guttebo but he could not be certain. Lt. Barker had no other information relevant to this investigation.

Gregory Smith
Deputy Sergeant
Brevard County Sheriff's Office

On May 24, 2017, I conducted a sworn, audio recorded interview with Sergeant Smith at the Canaveral Precinct. The following is a summary of that interview:

Smith stated that on May 16, 2017, he received a telephone call from Lieutenant Mike Green who asked him to send a deputy to Yogi's to check out a male who was in front of the liquor store. Smith then called FTO Jen Martin and gave her the information Green gave him, Martin and her trainee (Anthony Pena) then responded to the location.

Smith stated that shortly after arriving at Yogi's, Martin called him back and informed him that the male was being treated by paramedics and was not expected to survive. Smith stated he got in his car and started heading that way. While enroute, Smith called Green back and gave him an update.

Smith stated that after he arrived on scene and started talking to witnesses, he was shown a picture captured on a cell phone of the subject interacting with a deputy. That witness stated she overheard the deputy tell the subject he was going to arrest him for DUI if he got back on his bicycle. That witness told Smith that the deputy got in his vehicle and left the area after the victim made it across the road. Based on his personal knowledge of Guttebo, Smith stated he was certain that it was him. Smith stated he called Lieutenant Barker and requested he respond to the scene.

Ken Shields
Deputy Corporal
Brevard County Sheriff's Office

On May 24, 2017, I conducted a sworn, audio recorded interview with Corporal Shields at the Canaveral Precinct. The following is a summary of that interview:

Shields stated he responded to Yogi's after hearing FTO Jen Martin arrive on scene. He stated he saw Martin, Deputy Pena, and Deputy Soto assisting with BCFR as they were attending to the subject. Shields stated he was not involved with the investigation and had no firsthand knowledge of Guttebo's interactions with the subject.

Jennifer Martin
Deputy Sheriff
Brevard County Sheriff's Office

On May 26, 2017, I conducted a sworn, audio recorded telephonic interview with Deputy Martin. The following is a summary of that interview:

Martin stated that she received a phone call from Sergeant Greg Smith on May 16, 2017. Smith instructed her and her trainee to respond to Yogi's in reference to a possible intoxicated person. Martin stated when she and Pena arrived, they started a medical evaluation of the subject and noted that he did not have a pulse. Martin stated she began chest compressions until BCFR arrived on scene.

Martin stated while enroute, she did not see any other deputies or hear anyone check out with the subject on the radio. Martin later spoke with the bartender from Yogi's, Ms. Becky Norton, who provided her a photograph of the subject while he was interacting with the first deputy. Martin immediately recognized the deputy as being Kent Guttebo as she previously worked with him.

Anthony Pena
Deputy Sheriff
Brevard County Sheriff's Office

On May 24, 2017, I conducted a sworn, audio recorded interview with Deputy Pena at the Canaveral Precinct. The following is a summary of that interview:

Pena stated he was a Phase Four Deputy Trainee on May 16, 2017 when he and his FTO, Jen Martin, responded to Yogi's. Pena stated Martin received a phone call from Smith, instructing them to respond to Yogi's. As soon as they arrived on scene, Pena stated he and Martin began medically assessing the subject and noticed he did not have a pulse. Pena stated they immediately started CPR and called for BCFR to respond.

Pena stated he did not speak with any other witnesses during the investigation and had no firsthand knowledge of anyone else speaking with the subject prior to his arrival.

Adrian Soto
Deputy Sheriff
Brevard County Sheriff's Office

On May 24, 2017, I conducted a sworn, audio recorded interview with Deputy Soto at the Canaveral Precinct. The following is a summary of that interview:

Soto stated he responded to Yogi's with FTO Martin and Deputy Pena and arrived at about the same time. When they initially made contact with Mr. May, he was lying on the porch at Yogi's with his eyes open but he was not moving or looking around. At the time, Soto believed Mr. May had possibly overdosed and they began medically assessing him. Soto stated that when they were able to determine that Mr. May was not breathing and had no pulse, they started lifesaving measures. Soto stated that BCFR arrived quickly and took over. Soto stated he never spoke with Mr. May and he did not regain consciousness during this encounter.

Soto stated he was not part of the investigation and had no knowledge of any other deputy checking out with the subject prior to his arrival.

Rebekah Norton

On May 26, 2017, I conducted a sworn, audio recorded interview with Ms. Norton at Yogini's Liquor Shop. The following is a summary of that interview:

Ms. Norton stated she saw the deputy interacting with the subject in front of Yogi's on May 16, 2017. She stated she was not close enough to hear anything they were saying but the encounter was only about one to two minutes long.

Ms. Norton stated the subject was either intoxicated or in medical distress and causing some sort of traffic jam on A1A. She stated the subject had fallen off his bike prior to the deputy arriving and she saw him walk into traffic without looking for vehicles. Ms. Norton stated she was in the bar for the whole encounter and was not able to provide and firsthand knowledge of what was said between the deputy and the subject. Ms. Norton also stated that she has never had any interaction with the deputy or the male.

IV. Subject Employee:

Kent Guttebo
Deputy Sheriff
Brevard County Sheriff's Office

On May 25, 2017, I made contact with Deputy Kent Guttebo and provided him with a "Notice of Administrative Investigation." I explained the allegations and informed him to contact a

representative of his choice if he desired to have one with him during his interview. The interview was scheduled to take place on Wednesday, May 31, 2017, at 1500 hours at South Precinct.

On May 31, 2017, Guttebo arrived at South Precinct with PBA Representative Al Boettjer. Prior to the sworn audio recorded interview, Guttebo was provided with, and reviewed, the entire case file and listened to the audio recordings to his satisfaction. Details of the interview are as follows:

Guttebo stated he had worked an off-duty detail at the intersection of East Railroad Avenue and Canaveral Groves Boulevard in Cocoa. The detail was from 0600 hours till 1400 hours and he left on time. Guttebo stated that he logged on-duty and stamped the CAD event himself without calling it in to dispatch. *Silent dispatch for off-duty details as well as in-service (10-8) and out of service (10-7) are acceptable under BCSO Policy CC-3, Mobile Dispatch System.*

Guttebo stated that at the conclusion of the detail he took SR-528 over to A1A to go home. He stated he changed over to East Radio to monitor radio traffic while within that jurisdictional boundary. I then asked Guttebo about his encounter with the subject, who was later identified as Mr. Lonnie May. Guttebo stated he was travelling southbound on A1A when traffic started backing up in the left lane so he switched to the right lane. As he got closer, he saw vehicles stopped in the roadway for a male with a bicycle blocking the lane. Guttebo went around the other vehicles to address the situation. He turned on his overhead blue lights to warn other drivers and to protect himself and the male on the bicycle. As he approached, Guttebo stated he saw the male being helped to his feet by two women. He stated that once he arrived and the bystanders finished helping the male to his feet, the two women returned to their vehicles and left the area. Guttebo stated he had a brief conversation with Mr. May wherein May admitted he had been drinking earlier that day and that he was heading to Yogi's to get cigarettes. Guttebo stated he felt May was under the influence of alcohol but not to the point that he felt he needed any further assistance or was a candidate for a Marchman Act.

I asked Guttebo what he and May spoke about. He stated he asked May if he had been drinking. May told him he had been. May then told Guttebo he was going across the street to get cigarettes and pointed to Yogi's. Guttebo stated that after their conversation, he stopped northbound traffic and allowed Mr. May to cross the roadway.

I then asked Guttebo if he had ever encountered Mr. May prior to May 16, 2017. Guttebo stated he had worked at the Canaveral Precinct for approximately seven years and that he had contact with May on a few occasions during that time. Guttebo stated that during every encounter he had with May, he felt that May was under the influence of alcohol or drugs. Guttebo stated this encounter with May was just like his previous dealings with him and there was no indicators to make him believe otherwise.

I asked Guttebo if he felt May was in need of medical attention. He stated May did not exhibit any signs of medical distress and that he had the same demeanor he did during their past encounters.

In Sergeant Smith's statement, he stated a witness told him that Guttebo told May that if he got back on the bicycle, he would "Take his ass to jail for DUI". Guttebo stated he probably did say something along that line. I then asked Guttebo what his level of experience is when it comes to

DUI investigations. He stated he has been part of the Countywide DUI Unit and is currently the DUI Deputy for South Precinct. He estimates that in the nine years he had been employed with Brevard County Sheriff's Office, he has made approximately 200 DUI arrests. *After this interview was completed, I obtained the in-car video from this incident. Deputy Guttebo does have a short conversation with Mr. May where he tells him he will be subject to arrest if he tries to ride his bike away. This comment was made after Mr. May confirmed that he had been drinking, no profanity or insolent language was used by Deputy Guttebo during the encounter.*

I asked Guttebo if he believed there was anything else he should have done at the time of his initial contact with Mr. May. He stated he believed he did what any other deputy would have done in the same situation. I asked if he now believed there was anything else he should have done. Guttebo stated if a similar situation presents itself, he will be sure to call it out on the radio, and if necessary, wait until a zone deputy arrives.

V. Other Investigative Efforts

I met with Mr. Yogeshkymar Patel AKA "Yogi" at his place of business but he refused to provide me with a sworn statement, stating he already spoken with other deputies and agents. I listened to the sworn audio recorded interview with Mr. Patel that was taken by Deputy Soto. That interview did not provide any information that was not obtained from other sources during this investigation.

For this investigation, I reviewed Deputy Guttebo's in-car camera history in the VuVault database where the recordings are stored and found that there were no stored recordings from May 16, 2017 under Guttebo's login name. I was later able to locate the video of this encounter by performing a date / time search. The system reflects that this video was recorded on device 2625, which signifies Guttebo's vehicle. The operator is "Unknown" due to the fact that Guttebo did not log in to the camera. Deputy Guttebo is assigned vehicle 2625 which is a Ford Taurus Police Interceptor Model. The in-car camera is a Digital Ally model DVM-800. This model of camera functions differently from prior versions in the following ways: 1) This version automatically powers up when the car is started, the prior version had to be manually powered up prior to use. 2) This version will record whether the user is logged-in or not, in the prior system the operator had to log-in to the system prior to recording anything. 3) In the event that the user does not log-in prior to use, this system will automatically download the recording to the system via Wi-Fi and place it into a default storage area with no user name attached to it.

The video is one minute and forty five seconds long (1:45). Guttebo's vehicle is initially in the right lane as the video starts. As the first 30 seconds elapse, the traffic in the left lane is seen slowing to a stop but the right lane continues. Approximately 45 seconds into the video, Guttebo moves over to the left lane in front of a white sedan that is stopped in the lane blocking traffic. As he approaches, a full size white truck is seen parked in the center median and a dark blue compact car is stopped on the right shoulder.

As Guttebo drives past the sedan, he moves to the left lane and stops in front of the white sedan. As Guttebo passes, the video shows Mr. May being assisted by two females, one of which appears to be holding May's bicycle. In the video, it is clear that Mr. May is unsteady on his feet and that he needs assistance to stand.

Guttebo is heard asking "What's going on?" One of the females responds "I think he may have been drinking a little bit."

Guttebo then parks and exits his vehicle, he can be heard asking May what he is doing. May replies that he was going over there (Yogi's) to get some cigarettes. Guttebo then asks May if he is drunk, May replies "No." Guttebo then asks May, "How much have you had to drink?" May replies "About two or three drinks." Guttebo then tells May "If you get back on that bike, I'm gonna take you to jail. Do you understand that?"

Shortly thereafter, one of the females can be seen walking in front of Guttebo's vehicle crossing A1A, presumably back to her vehicle that was parked on the southbound shoulder. Northbound traffic then stops in both lanes for a few moments. At this time, no parties involved in this matter are visible on the video until 1:28 into the video when May can be seen walking his bicycle towards Yogi's. He does not appear to be staggering at that time but does have his hands on the bicycle for support. At 1:42 into the video, May goes out of view as northbound traffic starts moving again. Guttebo's vehicle then starts moving south and the video is ended.

VI. Summary and Recommendations:

On May 16, 2017 Deputy Guttebo arrived on the scene of a traffic obstruction in the middle of SR-A1A in Cape Canaveral. The obstruction was being caused by an elderly man that had fallen down in the median strip with his bicycle. As Guttebo was arriving on scene, two female citizens were assisting the male to his feet. Guttebo turned on the overhead lights of his vehicle (which activated his in-car camera) and pulled up alongside of the subject, although there is only a short segment of video that captures the man in the roadway, the audio portion of the recording does capture Guttebo's interaction with the male fairly well. During his brief interaction with Guttebo the subject confirms to him that he had been drinking that day. Guttebo warns the man that if he tries to ride his bicycle away, he will arrest him for DUI. Guttebo states that he assisted the man across the road to his destination (Yogi's Liquor) and then left the scene. Guttebo states that he has had prior contacts with Mr. May and that he has always been intoxicated. On the day of this incident, Guttebo states that he felt that Mr. May was under the influence of alcohol but not to the point that he needed any further assistance. Given the circumstances of how Guttebo came to be involved with Mr. May (he's admittedly been drinking, he appears to be intoxicated and he has collapsed in the middle of the roadway with his bicycle and is obstructing traffic in the middle of the day) this statement is difficult to believe.

During his contact with Mr. May, Deputy Guttebo failed to properly assess Mr. May's physical condition or attempt to find out why he fell over in the middle of the roadway. Deputy Guttebo stated that he felt Mr. May was not in any sort of medical distress at the time, in part, because he

was coherent and was able to carry on a conversation. Based on the audio from the in-car camera, the conversation that Guttebo refers to is only a few seconds long and consists of two or three simple questions. He also failed to take into consideration the fact that Mr. May had apparently collapsed in the roadway and needed assistance to get up. One witness reported that Mr. May had endangered himself and others when he walked out into traffic without regard to the oncoming traffic. Deputy Guttebo should have moved Mr. May to a safe location and then stayed with him as he notified the on-duty personnel so that they could respond and assess Mr. May's condition and needs.

During his contact with Mr. May, Deputy Guttebo failed to notify the Communications Center of his actions and he failed to alert the on-duty deputies of Mr. May's potential issues.

In addition to the procedural issues surrounding Guttebo's contact with Mr. May, there were several other procedural issues identified. Deputy Guttebo failed to properly log on to his in-car camera system, this delayed our ability to locate the video of this incident as it was logged into a "default" video log.

As documented above, this investigation has established Deputy Guttebo provided a substandard level of care and attention to Mr. May. Although there are numerous policy violations that could be sustained in this matter (*Section CC-3; Mobile Dispatch System; Section 200.10; Agency Owned Vehicles; Section 400.06; Compliance with Law and Regulation; Section 500.53; In-Car Video Cameras*). I recommend that they be consolidated into the following, **Sustained**, violations:

- General Order **400.00, General Professional Responsibilities**, which reads in part "Within Brevard County sworn employees will at all times: A. Protect life and property."
- General Order **400.04, Substandard Performance**. This sustained violation would encompass many of the performance issues identified during this investigation.

The remaining policy violation shall be closed as follows:

Section 400.02, Authority of Off-Duty Deputies--"Not-Sustained"

VII. Enclosures

- a. Authorization for Administrative Investigation**
- b. Notice of Administrative Investigation – Guttebo**
- c. Administrative Investigative Warning - Guttebo**
- d. PowerDETAILS Job #92095 description**
- e. Printed Photograph of May and Guttebo (taken by citizen)**
- f. Video from in-car camera system**

VIII. Oath

I, Agent Charles W. LaRoche, 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.

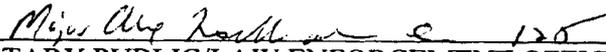
Signed

 #612

Agent Charles W. LaRoche #612

Sworn to and subscribed before me, the undersigned authority, and this 29th day of June, 2017.

Signature

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NOTARY PUBLIC/LAW ENFORCEMENT OFFICER
IN PERFORMANCE OF OFFICIAL DUTIES



Brevard County Sheriff's Office
Titusville, Florida

MEMORANDUM

DATE: July 18, 2017
TO: Deputy Kent Guttebo #634
FROM: Commander Victor DeSantis *D 26*
RE: Final Action
Administrative Investigation 2017-CI-015

A TRUE COPY
TIME 0238 .M.
DATE 07/20/17
BREVARD COUNTY SHERIFF'S OFFICE
Received By: Kent Guttebo
[Signature]
Signature of Employee Served
Served by:
[Signature] #383
Signature of Agent/Deputy

Administrative Investigation **2017-CI-015** is closed. The final action regarding this matter is the determination of sustained charges and the application of appropriate corrective action.

After a review of the administrative investigation, and in consideration of the input you provided during your pre-deprivation hearing on July 6, 2017, I have determined that your actions during this incident did not meet the standards of the Brevard County Sheriff's Office. During this encounter, you displayed a minimal amount of concern for the citizen that was apparently intoxicated and stumbling across the busy roadway. Even though you assisted the citizen across the street, you failed to notify the on-duty personnel so that they could provide the proper follow up and assistance to this citizen. As a result of my review, I am sustaining the following policy violations: **400.00, General Professional Responsibilities** and **400.04, Substandard Performance**.

As a corrective action in this matter, you will receive a **Letter of Reprimand**. You are forewarned that any subsequent violations could lead to progressive discipline up to, and including, termination of your employment. In addition to this corrective action, you are also being suspended from the off-duty detail program for a period of one calendar month. This suspension will be served from August 1, 2017 through August 31, 2017. You may bid for September details in August, but you cannot work any details during August.

This Final Action Letter will serve as your Letter of Reprimand.

cc: Chief Deputy Waller
Human Resource Manager Gillis