





Brevard County Sheriff's Office
Titusville, Florida

MEMORANDUM

TO: Chief Deputy Doug Waller 

FROM: Agent Joseph Bracey, Staff Services Unit 

DATE: July 27, 2017

RE: Command Inquiry 2017-CI-019

I. Summary

On June 20, 2017, at approximately 0310 hours, Deputy Tyler Harrell (ID#1440) initiated a consensual encounter with the five passengers of a suspicious vehicle at the Exxon gas station located at 904 Oak Street in Melbourne Beach, refer to CR#2017-210023. Approximately one minute into this encounter he was joined by Deputy Michael Bernard (ID#350). A few minutes later they were joined by Officer Sadler from the Melbourne Beach Police Department (MBPD). Midway through this encounter, they were joined by Officer Vila from the MBPD. The bulk of this encounter was captured on the body cameras worn by the MBPD officers and by a surveillance camera positioned on the parking lot, there was no in-car camera footage of this incident.

During the encounter, Deputy Harrell smelled the odor of suspected marijuana emitting from the vehicle and he removed the occupants. A vehicle search was then conducted, during the search a jar with suspected marijuana in it and a small scale with individual baggies were located. Deputy Harrell determined that there was a misdemeanor amount of suspected marijuana in the jar (later determined to be 14-15 grams). Deputy Harrell conveyed his findings to Melbourne Beach Officer Jason Sadler and asked if he wanted the arrest. Officer Sadler declined and Deputy Harrell said he would have the subject dump it. Surveillance video obtained from the Exxon gas station showed one of the vehicle occupants walk over to a garbage can where he can be seen placing an object into the can as Deputy Harrell watches.

At the conclusion of the encounter, all five vehicle occupants were released. The suspected marijuana was not seized by Deputy Harrell or Deputy Bernard. There was no case report written to document this encounter or the discovery of the contraband.

Officer Sadler later notified Sergeant Matthew Smith of the MBPD about this incident. Officer Sadler was then ordered to retrieve the suspected marijuana from the trash can and complete a report on this incident. The suspected contraband was recovered and then tested to confirm that it was in-fact, marijuana.

Sergeant Smith notified BCSO Sergeant Kevin Roberts (ID#13) and provided him with a synopsis of the incident. Sergeant Roberts collected a DVD from MBPD that contained the body camera footage of Officer Jason Sadler and Officer Alexander Vila of the encounter, as well as copies of the case report written by Officer Sadler and the supplement report written by Officer Vila (MBPD 2017-00004908).

Sergeant Roberts turned the DVD and case reports over to Sergeant Jason Knepp (ID#182). Sergeant Knepp completed a Memorandum to Commander Gregory Purden (ID#37) documenting this incident and requesting a formal investigation.

On June 22, 2017, Chief Michael DeMorat (ID#297) authorized an Administrative Investigation.

On July 5, 2017, Deputy Harrell was served his Notice of Administrative Investigation.

On July 6, 2017, Deputy Bernard was served his Notice of Administrative Investigation.

II. Possible Policy Violations:

- *400.00 General Professional Responsibilities*
- *400.04 Substandard Performance*
- *400.06 Compliance with Law & Regulation*
- *500.15 Field Reporting Procedure*
- *500.53 In-Car Video Cameras*
- *500.56 Evidence Collection and Storage*

III. Witness Interviews:

Police Officer Jason Sadler Melbourne Beach Police Department

On Wednesday, June 28, 2017, Agent Hupfer and I conducted a sworn, audio-recorded interview with Officer Sadler at Melbourne Beach Police Department. Officer Sadler advised there had been a vehicle burglary report in a residential neighborhood in the city of Melbourne Beach. A request was made with the Sheriff's Office for assistance. Deputy Harrell came to assist with his K-9. Deputy Harrell later saw a vehicle at the

Exxon gas station in Melbourne Beach and one of the male occupants was profusely sweating. Deputy Harrell requested Melbourne Beach Police Department respond to verify if this individual was possibly involved in the burglary case they were investigating.

Officer Sadler responded as backup to Deputy Harrell. When he arrived, he observed Deputy Bernard on-scene gathering all of the occupant's information on a notepad. He observed that the occupants were all standing outside of the vehicle and the vehicle doors were all open. Officer Sadler stated he observed Deputy Harrell searching the vehicle and he smelled a slight odor of marijuana coming from the vehicle himself. After 5-10 minutes of vehicle searching, Deputy Harrell approached him and said he found a scale in the vehicle and he asked Sadler if he also had a scale, Sadler replied that he did not. Deputy Harrell then walked over towards Deputy Bernard, Officer Sadler assumed it was to look for a scale.

Deputy Harrell went back to the suspect vehicle and was on the passenger's side doing more searching of the interior. He pulled out what Officer Sadler believed to be a brown bag from the vehicle. Deputy Harrell then approached him and pulled him aside to speak to him away from the occupants of the car. Deputy Harrell then told him that he found marijuana in the vehicle. Deputy Harrell said he didn't know how MBPD would handle it, but he (Harrell) didn't care about arrests or stats. He asked Officer Sadler if he wanted the arrest, to which Officer Sadler replied that he did not want the arrest. Deputy Harrell said he would dump it, referring to disposing of the marijuana and Officer Sadler responded that he could do whatever he wanted. *Note, this interaction was captured by Officer Sadler's body camera.*

Officer Sadler recalled that during this conversation with Deputy Harrell, he asked Deputy Harrell where he found the marijuana or if anyone had admitted to possessing it. Deputy Harrell responded that the driver had admitted that all the marijuana belonged to him.

Officer Sadler also believed that Deputy Bernard was present when Deputy Harrell stated that he would have the occupants discard the marijuana. According to Officer Sadler, *Deputy Bernard made no statements at that point except that he did not want the arrest. Bernard is not seen on the body camera footage during this exchange and any response he made to Deputy Harrell is not heard in the body camera footage.*

Later during the stop, a request was made for a female officer to pat down the two female vehicle occupants and an Indian Harbour Beach Police Department Officer responded. While the pat downs were occurring, Deputy Harrell escorted a male vehicle occupant over to the passenger's side of the suspect vehicle and spoke to him alone. Officer Sadler advised he observed this and listened to what they were saying. He heard Deputy Harrell tell the subject he was not going to arrest him, but he wanted him to throw away the trash he found in the car and pointed to the front passenger's seat of the vehicle. The vehicle

occupant then walked to the passenger's side, grabbed a brown paper bag from the front seat, walked over to the trash can near the Exxon gas station sign and threw it in the trash. Officer Sadler advised he assumed it was the marijuana that was being thrown away because of what Deputy Harrell had said about just dumping the marijuana he found. When he later returned to the Exxon at Sergeant Smith's direction, the brown bag was still in the same trash can as it had been discarded in by the vehicle occupant. He retrieved the bag and upon inspecting inside of it, observed what appeared to be a large amount of marijuana. Officer Sadler field tested the substance (which tested positive as marijuana), weighed it (Approximately 4.5 grams), and then sealed it in an evidence bag.

Officer Sadler advised he had a body camera on his person during the encounter at the Exxon and it was activated and recording for a large portion of his time on-scene. Officer Sadler said he reviewed his body camera footage. Officer Sadler advised that he turned his body camera off near the end of the encounter because he no longer believed the vehicle occupants were involved in the burglaries in the city of Melbourne Beach.

Officer Sadler completed an offense report documenting his observations on-scene and his body camera footage observations. Refer to MBPD CR#2017-00004908.

**Police Officer Alexander Vila
Melbourne Beach Police Department**

On Wednesday, June 28, 2017, Agent Hupfer and I conducted a sworn, audio-recorded interview with Officer Vila at Melbourne Beach Police Department. Officer Vila advised he arrived after Officer Sadler was already on-scene. Officer Vila explained that he was present when Deputy Harrell advised to Deputy Bernard and Officer Sadler that there was marijuana in the suspect vehicle he had searched and he was trying to figure out what he was going to do about it. Deputy Harrell said he was thinking about having the occupants discard it. Officer Vila clarified that Deputy Bernard was present for this conversation, but did not recall if Deputy Bernard said anything in relation to Deputy Harrell's statements.

At one point during the encounter, he observed Deputy Harrell escort a male vehicle occupant over to the passenger's side of the vehicle and overheard Deputy Harrell tell him to throw away his trash. He then observed the male go into the vehicle and remove a brown bag and throw it in the trash can. He was "pretty positive" at the time he observed this that the male was throwing away the bag that contained the marijuana because Deputy Harrell had advised he was going to have them discard it, but he was not certain.

Officer Vila explained that when he first arrived on-scene, his body camera was not on, however Officer Sadler's was. When he realized his own body camera was not on, he activated it. From his recollection, Officer Vila believes he turned his camera on in time to hear Deputy Harrell say he had found marijuana in the vehicle.

Officer Vila stated he was not present when Officer Sadler returned to the Exxon the next shift to retrieve the suspected marijuana from the trash can. Officer Vila stated he was not present when the bag was opened, weighed and field tested at Melbourne Beach Police Department. He advised that he completed a supplemental case report to Officer Sadler's offense report, documenting his observations on-scene and his body camera footage observations.

Sergeant Matthew Smith
Melbourne Beach Police Department

On Wednesday, June 28, 2017, Agent Hupfer and I conducted a sworn, audio-recorded interview with Sgt. Matthew Smith at Melbourne Beach Police Department, located at 507 Ocean Avenue, Melbourne Beach, Florida. Sgt. Smith had no first-hand knowledge of this encounter, the information he had, came from Officer Sadler and Officer Vila.

Sgt. Smith advised that he was notified by Officer Sadler and Officer Vila at approximately 1700 hours on June 20, 2017 about this incident when he came in to work. Officer Sadler and Officer Vila provided a detailed explanation of what happened. Once Sgt. Smith was aware of the details of this situation, he ordered Officer Sadler to go back to the Exxon gas station and check the trashcan for the suspected marijuana and see if it was still in the trash. Sgt. Smith notified MBPD Chief Dan Duncan by phone of the situation. While on the phone with Chief Duncan, Officer Sadler returned to the Police Department with the brown bag containing the suspected marijuana. Sgt. Smith stated he weighed it and it was approximately 14.5 grams of marijuana. Sgt. Smith field tested the marijuana, which tested positive, and then he placed the marijuana into evidence. Chief Duncan directed Sgt. Smith to notify the Brevard County Sheriff's Office. Sgt. Smith contacted BCSO South Precinct Sgt. Kevin Roberts and asked him to respond to MBPD to be briefed about this situation.

Sgt. Smith said he reviewed the body camera footage from both Officer Sadler and Officer Vila from the time frame of the suspicious vehicle encounter. Based on his observations on the body camera footage, it was consistent with everything Officer Sadler and Officer Vila had reported to him. Officer Sadler also completed an offense report and Officer Vila completed a supplement report. Sgt. Smith advised their reports accurately reflected the information that he was told regarding this incident.

Corporal Jennifer Imperato
Indian Harbour Beach Police Department

On Wednesday, June 28, 2017, Agent Hupfer and I conducted a sworn, audio-recorded interview with Corporal Imperato at Indian Harbour Beach Police Department, located at 40 Cheyenne Ct, Indian Harbour Beach, Florida. Corporal Imperato advised she was working on the night of June 20, 2017 in the city of Indian Harbour Beach when she was

contacted to conduct a female pat down search. She arrived on-scene and was asked to search two females. She searched the females and did not find anything illegal on them. During her time on-scene, she did not hear any conversation in relation to any marijuana being found in the occupant's vehicle and she never saw any. She also did not observe anyone throw anything in a trashcan.

IV. Subject Interview:

Deputy Michael Bernard South Precinct Subject Interview

On July 06, 2017, Agent LaRoche and I met with Deputy Bernard at the Brevard County Sheriff's Office, South Precinct to conduct a sworn audio-recorded interview with him. Once Deputy Bernard reviewed the case file to his satisfaction, I initiated a sworn interview with him. Prior to asking Deputy Bernard any questions, he was read the Administrative Investigation Warnings, which he acknowledged he understood and signed. During the interview, Deputy Bernard was accompanied by Coastal Florida Police Benevolent Association representative Al Boettjer. I explained to Deputy Bernard the nature of this investigation and asked him to explain what occurred on June 20, 2017 during the suspicious vehicle encounter that Deputy Harrell initiated. The following is a summary of the interview:

Deputy Bernard advised he was assisting MBPD with a vehicle burglary investigation. A K-9 was called for assistance as well and conducted a track. At the conclusion of the assist with MBPD, Deputy Harrell located a suspicious vehicle at the Exxon gas station. Deputy Bernard explained that he arrived on-scene as backup to Deputy Harrell and observed that the suspicious vehicle was occupied by several juveniles. Deputy Harrell asked Deputy Bernard to positively identify the vehicle occupants, so Deputy Bernard began acquiring their pertinent information. While in the process of checking the occupants information on the computer, Deputy Harrell approached him with a small plastic box he found in a female's purse that contained some miscellaneous pills and he requested that Deputy Bernard identify them. Deputy Bernard utilized Drugs.com to identify the pills. He advised one was an Ibuprofen and from his recollection the other was a laxative or yeast infection pill. Deputy Bernard advised since the pills were not a controlled substance they were returned to female.

Deputy Bernard advised that Deputy Harrell was abrasive, arrogant and cocky towards him, which was off-putting to him. Deputy Bernard advised he was unaware that Deputy Harrell had located marijuana in the suspect vehicle during his search until he was made aware of it during this investigation. Deputy Bernard advised that it was a surprise to view the body camera footage and hear that Deputy Harrell had told him about the marijuana. Deputy Bernard also advised that even though he replied to Deputy Harrell with "ok" on the body camera footage, he was pre-occupied with his task of identifying

the vehicle occupants and he was not really paying attention to what Deputy Harrell was saying. He advised that by saying "ok" he was just acknowledging that Deputy Harrell had said something. Deputy Bernard stated he did not realize Deputy Harrell was talking to him about anything in specific, he felt his comments were directed towards the MBPD Officers. Because he felt that Deputy Harrell was talking down to him like he was a "rookie" cop, he just focused his attention on identifying the occupants so that he did not have to hear anything else from him. Deputy Bernard also advised that towards the end of the stop, he "vented" his frustration about Deputy Harrell's attitude towards him to one of the MBPD Officers.

Deputy Bernard advised that Deputy Harrell "may" have approached him while he was identifying the pills and asked him whether or not he had a scale, but that he replied with "no" because he did not have a scale. He advised he did not know if Deputy Harrell had found something or not. Deputy Bernard advised he did not think he was present when Deputy Harrell asked the MBPD Officer if he wanted the arrest. Deputy Bernard also did not recall if Deputy Harrell ever asked him if he wanted the arrest.

Deputy Bernard advised he was unable to hear any conversation between Deputy Harrell and the male vehicle occupant he had pulled aside to speak to alone. Deputy Bernard also advised he did not see the vehicle occupant take anything from the vehicle and throw it in a trash can. Deputy Bernard advised that if he had become aware of the marijuana at any point during the encounter, he probably would have seized it himself and placed it in evidence for destruction and written a case report. He advised that he would likely not have made an arrest because the marijuana was in a vehicle with five occupants. Deputy Bernard stated that he knows now that Deputy Harrell obtained a confession that the driver admitted it was his however he does not know if that was obtained in a legal way which could have been used to charge the driver. Deputy Bernard also advised that he did not recall Deputy Harrell saying he would have the occupants "dump it," referring to having the vehicle occupants throw out any substances.

Deputy Bernard advised that had he found out that marijuana was discarded in the trashcan he would have retrieved it himself and would have contacted Sergeant Roberts, who is his direct supervisor.

K-9 Deputy Tyler Harrell Subject Interview

On July 12, 2017, Agent LaRoche 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. Deputy Harrell read the initial paper documents, which included the Memorandum from Sergeant Knepp, and the MBPD case reports, but declined to listed to the audio files or watch the video files. I initiated a sworn interview with him after he was satisfied with what he had reviewed. Prior to asking Deputy Harrell any questions, he was read the Administrative Investigation Warnings, which he acknowledged he understood and

signed. During the interview, Deputy Harrell was not accompanied by anyone. I clarified with Deputy Harrell that he had the right to have a representative of his choosing present for this interview. He acknowledged that he was aware he could have representation but that he was choosing to be interviewed without representation. I explained to Deputy Harrell the nature of this investigation and asked him to explain what occurred at on June 20, 2017 at the suspicious vehicle encounter he initiated. The following is a summary of the interview:

Deputy Harrell began the interview by stating that he knows why he is in this situation and that he was not going to defend his actions or justify them but that he would try to explain them. He advised that part of that explanation involves what occurred prior to the vehicle encounter. He advised there are three K-9 handlers on his squad, and two of those are trainers that are currently in training so he was the only K-9 on-duty during the time frame in question. He had been told to stay central in the county and remain available since the K-9 availability is so limited. *Note, A CAD activity report was queried for Deputy Harrell's activity during his shift. The report reflects that Deputy Harrell was responding to calls for service in the Merritt Island areas until 0124 hours when he responded to Indian Harbour Beach to assist with a burglary investigation.*

On June 20, 2017, Indian Harbour Beach Police requested a K-9 in reference to burglaries so he responded and conducted a K-9 track. While involved in that investigation, MBPD requested a K-9 in reference to burglaries also. West Melbourne Police Department assisted in the MBPD investigation until he was finished with Indian Harbour Beach. When he finished, he responded to Melbourne Beach's investigation at the request of the West Melbourne K-9 handler. Deputy Harrell utilized his K-9 to conduct a track from a point where West Melbourne's K-9 had ended due to the K-9 being tired. Deputy Harrell's K-9 continued the track and from the K-9's behavior, Deputy Harrell felt that a suspect could be close by. Eventually the track led outside of the established perimeter and Deputy Harrell felt it was the best course of action to cancel the track any further. Deputy Harrell conducted some area searches on his way back to his vehicle. When he drove his patrol vehicle out towards A1A, he saw a vehicle at Spessard Holland Park. He contacted the occupants of that vehicle and found it was an older couple and they did not appear to have any involvement in the burglary investigation. The couple relayed to him that there had been another vehicle at the park prior to his arrival that could be related to what he was looking for. Deputy Harrell advised that as he looked over, he observed that vehicle driving away from the park.

Deputy Harrell advised that, in his mind, he was looking for burglars and a vehicle just left the area after seeing his blue lights, which he felt was suspicious. Additionally, the vehicle left the park at a high rate of speed once it reached SR-A1A. Deputy Harrell advised it took him all the way up until the Exxon gas station to catch up to the vehicle. He further added to the suspicious nature of the circumstance that the driver exited the car at the gas station and started cleaning his windows. Deputy Harrell advised he pulled up behind the vehicle and engaged the driver in a consensual encounter. He pulled up

behind the vehicle in such a way that his driver door was facing the rear of the suspect vehicle.

Deputy Harrell advised that he was familiar with the policy regarding the use of his in-car camera system and that he should utilize it during all traffic stops. Additionally, he advised he should use it during incidents where it could be of evidentiary value. Deputy Harrell advised that at the time of this encounter, he was not thinking about that and he just exited his vehicle as quickly as possible to make contact with the occupants.

He made contact with the driver in a consensual encounter. As he approached the driver he could smell the odor of marijuana emitting from the vehicle because the driver's door was open. He observed that there were four other vehicle occupants also. Deputy Bernard arrives as backup and he asked Deputy Bernard to identify the vehicle occupants. Deputy Harrell utilized his radio to contact MBPD to have them respond to see if these individuals were possibly involved in the burglaries they had been investigating. He requested MBPD respond because one of the males was wearing dark clothing and the males were sweaty and the vehicle had fled from the park in a hasty manner, all of which were suspicious. When MBPD arrived, he explained all of his observations to the officer. Deputy Harrell thought at that point, the MBPD Officer would engage and begin an investigation to see if the occupants were involved in the burglaries, however there was no engagement by the officer. Deputy Harrell advised at this point he felt that his part was over and he needed to get back to the central part of the county and be available for K-9 usage if needed. No one initiated an investigation so he decided to search the vehicle based on the odor of marijuana that he smelled. Deputy Harrell stated "it was mine, it was mine, 100 percent I own that vehicle I smelled it, and maybe I was wrong in trying to give it to them in the first place, maybe I should have just taken it from the beginning," referring to the fact that he had smelled the marijuana from the vehicle and should follow through with the investigation.

Deputy Harrell stated that he asked the driver if there was any marijuana in the vehicle and the driver said there was. Deputy Harrell advised at that point he knew there was marijuana in the car because he could smell it and the driver admitted it, but when he was searching the vehicle he was looking for evidence of burglaries, such of burglary tools or potentially stolen property. Deputy Harrell stated he did not find any of those items in the car. During the search, he found a mason jar on the driver's side floorboard with marijuana in it. Deputy Harrell said he knew from his training and experience it was marijuana, even though he did not field test it. Also in the vehicle, Deputy Harrell stated he found a scale and some individual plastic baggies. Deputy Harrell advised he went to his patrol vehicle and grabbed a paper bag, which he weighed on the suspect's scale and then he put the marijuana in the paper bag and weighed it again. Deputy Harrell advised he thought it was between 16-18 grams, although he felt the suspect's scale was off. *The marijuana was later weighed by the MBPD officers and found to be approximately 14.5 grams.*

At some point during this chain of events, the second MBPD Officer (Officer Vila) arrived on-scene and said the victim of the burglary in their city did not want to sign any affidavits at that time. Deputy Harrell advised at that point the investigation into the burglary was finished. They had already identified these juveniles for future use if necessary and there was no longer a crime in respect to the burglary to investigate.

Deputy Harrell advised he went to the MBPD Officer and asked questions he already knew the answer to, to try and get the MBPD Officers to engage and take over. He asked who's jurisdiction it was and then he told them he had found close to a felony amount of marijuana in the vehicle. Deputy Harrell asked one of the MBPD Officers if he wanted the arrest, but no one wanted to take the arrest. Deputy Harrell said he was going to have them "dump it" then, referencing throwing away the marijuana. Deputy Harrell said he told them "it doesn't do shit for me." He clarified that it does not mean it is not his responsibility as a law enforcement officer, but referring to being a K-9 handler it is not his area of law enforcement action. He went on to say that it is not an excuse, because he is still a Deputy Sheriff and he knows it is his responsibility to seize the illegal substance.

Deputy Harrell stated he went to the driver of the vehicle who told him he had been involved in a car accident in the past and rather than take opiates, he chooses to smoke marijuana. Deputy Harrell advised that the juvenile seemed like a decent kid and he appreciated his apparent honesty. Deputy Harrell said he told the juvenile he should not drive with illegal substances in his vehicle and told him to "go throw away your trash." Deputy Harrell said the juvenile went to the vehicle and grabbed the paper bag that Deputy Harrell had put the marijuana in and he walked it to the trashcan and threw it away.

I asked Deputy Harrell why at the very least he did not seize the marijuana for destruction and Deputy Harrell responded that he knew seizing the marijuana for destruction was the right thing to do, however he did not do that. He advised he did not realize at the time the severity of tossing out the marijuana because he thought it was a common thing. He advised he sees misdemeanor amounts of marijuana thrown out often. He advised it happened when he was in the FTO program and he was congratulated that he had made a good choice. He advised he's seen it throughout his career and thought that is "kind of what we did." When asked to name a specific circumstance which this happened or a specific person who Deputy Harrell witnessed dispose of marijuana, he was unable to provide a specific circumstance or person's name.

Deputy Harrell stated he was not going to charge the driver in this particular case because he was honest with him about having marijuana. Deputy Harrell also stated he felt he had discretion because it was a misdemeanor amount. He continued to state that he still should have seized it for destruction because that is the right thing to do.

Deputy Harrell advised he wrote no case report to document this encounter and did not utilize his camera to record the incident. Since he did not activate his emergency blue lights, his camera did not automatically turn on and he did not manually activate his

camera or activate the body mic to turn on the camera because he does not carry it on his person due to getting wet so often as a K-9 handler.

Deputy Harrell also advised that prior to getting served his Notice of Administrative Hearing, he heard through a Cocoa Beach Police Officer that he was getting fired. He advised he was told that it had something to do with a Melbourne Beach case. He asked around, to include calling Sergeant Knepp who advised he could not discuss it.

In his closing statement for the record, Deputy Harrell wanted to make it clear that he knew he was wrong for his actions and that if he could go back he would handle the situation differently.

V. Other Investigative Efforts

I obtained a copy of the body camera footage from MBPD Officer Sadler and MBPD Officer Vila from Commander Purden. I reviewed Officer Sadler's body camera footage and found it is consistent with Officer Sadler's sworn statement and his case report. I also reviewed Officer Vila's body camera footage and found it is consistent with his sworn statement and his supplemental report on this incident.

I obtained the CAD Report of the suspicious vehicle encounter (Case# 2017-210023) through the Communications Center Supervisor, Terry Myers. Deputy Harrell's interaction with the suspects at the Exxon Station was not captured on his in-car camera system. A review of Deputy Harrell's in-car camera footage revealed that his system was operational just minutes prior to this encounter as it captured him conducting a traffic stop, refer to CR#2017-210019.

A review of Deputy Bernard's dash camera uploaded video for June 20, 2017, shows no in-car camera footage for the encounter at the Exxon gas station.

I also obtained a copy of the surveillance video from the exterior of the Exxon gas station from store manager, Alex Mullins. A review of the surveillance video is consistent with the body camera footage of MBPD Officer's Sadler and Vila. The surveillance video shows the vehicle occupant throwing a brown bag in the trash can as Deputy Harrell observes his action.

I obtained the CAD activity report for Deputy Harrell during his tour of duty to document his activity between June 19, 2017 at 2000 hours and June 20, 2017 at 0800 hours. The resulting activity report shows that Deputy Harrell was working in the central part of the county and was assigned to calls for service in the Cocoa and Merritt Island areas. In the instances where he was assigned to calls for service in Cocoa, his response was terminated. At 0124 hours, he was called to assist Indian Harbour Beach with a burglary investigation. Following this investigation, he was called to assist Melbourne Beach

Police Department with a burglary investigation. He then has the two suspicious vehicle encounters that were documented above (2017-210019 and 2017-210023).

VI. Finding of Fact

A: Deputy Tyler Harrell, is a patrol deputy assigned to the K-9 Unit, he is assigned an identification number of #1440. On June 20, 2017, he was on-duty and operating as a K-9 unit.

B: Deputy Mike Bernard, is a patrol deputy assigned to South Precinct Patrol, he is assigned an identification number of #350. On June 20, 2017, he was on-duty and operating as a patrol deputy in the area of Melbourne Beach (63 Zone).

C: Deputy Harrell responded to Melbourne Beach in response to a request for assistance related to a burglary investigation they were conducting.

D: Deputy Harrell located a suspicious vehicle which was possibly related to the burglary investigation. He subsequently initiated a lawful, consensual encounter with the occupants of the vehicle at the Exxon Gas Station.

E: Deputy Harrell smelled the distinct odor of marijuana emitting from the vehicle as he spoke to the vehicle's driver.

F: Deputy Harrell conducted a probable cause search of the vehicle and located marijuana in a mason jar on the driver's side floor board.

G: Deputy Harrell failed to properly process the suspected marijuana; he failed to test it to confirm what it was, he failed to properly weigh it to determine what level of offense he was dealing with (misdemeanor or felony), he failed to seize the contraband so that it could be disposed of properly and he failed to document his actions with the required case report.

H: Deputy Harrell failed to seek direction from his supervisor on appropriate action to take.

I: Deputy Harrell displayed a poor attitude towards his responsibilities as a Deputy Sheriff by stating to MBPD that making an arrest for misdemeanor marijuana "doesn't do shit for me."

J: Deputy Harrell failed to utilize his in-car video system to record this encounter.

K: As observed in the body camera video, Deputy Bernard was told by Deputy Harrell that marijuana was found in the vehicle and Deputy Bernard responded with "ok." During his interview, Deputy Bernard stated that although he was told marijuana was found in the vehicle, he was not paying attention to Harrell and did not register that information.

L: Deputy Harrell and Deputy Bernard displayed poor teamwork in the handling of this encounter. Either deputy could have seized the contraband and submitted it for prosecution or disposal. Neither deputy took the initiative to contact the parents of the involved juveniles. By failing to communicate with each other in a professional manner the contraband was handled improperly and it created additional work for another agency to address it properly.

VII: Recommendation

Based on the facts set forth in this administrative investigation, I recommend the following:

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

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

The allegation against Deputy Harrell that he violated *400.06 Compliance with Law and Regulation* be closed as **"Sustained."**

The allegation against Deputy Harrell that he violated *500.15 Field Reporting Procedure* be closed as **"Sustained."**

The allegation against Deputy Harrell that he violated *500.53 In-Car Video Cameras* be closed as **"Sustained."**

The allegation against Deputy Harrell that he violated *500.56 Evidence Collection and Storage* be closed as **"Sustained."**

As it pertains to Deputy Bernard, based on the facts set forth in this administrative investigation, I recommend the following:

The allegation against Deputy Bernard that he violated *400.00 General Professional Responsibilities* be closed as **"Sustained."**

The allegation against Deputy Bernard that he violated *400.04 Substandard Performance* be closed as **"Sustained."**

The allegation against Deputy Bernard that he violated *400.06 Compliance with Law and Regulation* be closed as **"Not Sustained."**

The allegation against Deputy Bernard that he violated *500.15 Field Reporting Procedure* be closed as **"Not Sustained."**


The allegation against Deputy Bernard that he violated *500.56 Evidence Collection and Storage* be closed as **"Not Sustained."**

VIII. Enclosures

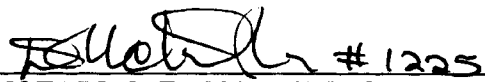
- Copy of Melbourne Beach Police Department case report and supplement report (C/R#2017-00004908)
- Copy of Photograph of Marijuana
- Memorandum from Sergeant Knepp to Commander Purden
- Memorandum from Chief Michael DeMorat to Major Fischback authorizing the Administrative Investigation
- CAD Report for Suspicious Vehicle at Spessard Holland (CR#2017-210019)
- CAD Report for Suspicious Vehicle at Exxon Gas Station (CR#2017-210023)
- Notice of Administrative Investigation-Tyler Harrell
- Notice of Administrative Investigation-Michael Bernard
- Administrative Investigation Warning- Tyler Harrell
- Administrative Investigative Warning- Michael Bernard
- Audio Recordings of Interviews
- Copy of Melbourne Beach Police Officer's Body Camera Footage
- Copy of Exxon Gas Station Surveillance Video
- Copy of Dash Camera Video from Deputy Harrell's Vehicle of Suspicious Vehicle (2017-210019)
- Copy of Deputy Bernard's Note Pad
- CAD Activity Report for Deputy Harrell

IX. Oath

I, Agent Joseph Bracey, 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  #784
Agent Joseph Bracey, ID 784

Sworn to and subscribed before me, the undersigned authority, this 27th day of July, 2017.

Signature  #1225
NOTARY PUBLIC/LAW ENFORCEMENT OFFICER
IN PERFORMANCE OF OFFICIAL DUTIES



Brevard County Sheriff's Office
Titusville, Florida

MEMORANDUM

DATE: August 3, 2017
TO: Deputy Michael Bernard
FROM: Commander Vic DeSantis
RE: Final Action
Administrative Investigation 2017-CI-019

A TRUE COPY	
TIME	1800 P.M.
DATE	8/4/2017
BREVARD COUNTY SHERIFF'S OFFICE	
Received By: Michael Bernard	
<i>Dep [Signature]</i> #350	
Signature of Employee Served	
Served by:	
<i>LT. R. [Signature]</i> 120	
Signature of Agent/Deputy	

Administrative Investigation 2017-CI-019 is now 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 your input at your pre-deprivation hearing on August 3, 2017, I have determined that your actions were in violation of the established policies and standards of the agency. Based on my review, I am sustaining violations of **400.00 General Professional Responsibilities** and **400.04 Substandard Performance**. The allegation that you were in violation of **400.06 Compliance with Law and Regulation**, **500.15 Field Reporting and Procedure**, and **500.56 Evidence Collection and Storage** shall be closed as **"Not-Sustained."**

During your hearing you displayed a positive attitude and took full responsibility for your actions. I am confident that this pattern of behavior will not be repeated. As a corrective action you will receive a **Letter of Reprimand**. You are forewarned that any subsequent violations could lead to progressive discipline up to, and including, termination.

This memorandum will serve as your Letter of Reprimand.



cc: Chief Alan Moros
Human Resource Manager Lisa Gillis
Investigative File 2017-CI-019

RECEIVED
AUG 07 2017
BY: _____




Brevard County Sheriff's Office
Titusville, Florida

MEMORANDUM

A TRUE COPY	
TIME	4:15 P.M.
DATE	8/7/17
BREVARD COUNTY SHERIFF'S OFFICE	
Received By: Tyler Harrell	
*  #1440	
Signature of Employee Served	
Served by:	
	
Signature of Agent/Deputy	

Date: August 7, 2017

To: Deputy Tyler Harrell #1440

From: Chief Alan Moros 

Re: Final Action
Administrative Action 2017-CI-019

Administrative Investigation **2017-CI-019** is now closed. The final action regarding this inquiry is the determination of sustained charges and the application of appropriate corrective action.

This investigation was initiated over the mishandling of evidence and failure to document the situation appropriately. After a review of the administrative investigation, I have determined that you have established a pattern of behavior that is of concern to me. During a Pre-Termination Hearing on August 3, 2017, you stated you knew the correct actions to take regarding evidence collection and documentation and you intentionally made the wrong choice, ignoring agency policy and procedure. You accepted responsibility for your actions and assured me this type of behavior would not happen again.

As a result of my review, I am sustaining the following policy violations: **400.00 General Professional Responsibilities, 400.04 Substandard Performance, 400.06 Compliance with Law and Regulation, 500.15 Field Reporting Procedure, 500.53 In-Car Video Cameras, and 500.56 Evidence Collection and Storage.**

As a corrective action for these violations, you will receive a **40 hours suspension** and will be reassigned to Patrol. Additionally, the enactment of a 'Disciplinary Last Chance Agreement' will be in effect. The 'Agreement' will establish specific benchmarks and standards for you to meet while providing you with an opportunity to rehabilitate your reputation, personal behavior and work performance. The 'Agreement' also provides the agency with a mechanism to address any future reoccurrences of similar types of behaviors. The expectations of the organization are that you will become a model

Command Inquiry 2017-CI-019
August 7, 2017
Page 2 of 2

employee. A copy of the enacted '*Agreement*' has been attached hereto for any file reference you may require. The '*Agreement*' shall continue in full effect through February 7, 2019.

Enclosures: 1) Disciplinary Last Chance Agreement, Tyler Harrell

c: Staff Services, File 2017-CI-019