

**VOLUSIA SHERIFF'S OFFICE
INTERNAL AFFAIRS**

REPORT OF INVESTIGATION

REPORT NUMBER: IA 20-016

PERIOD COVERED: September 15, 2020
DATE REPORTED: September 15, 2020
SUBJECT NAME: Deputy Joshua Patsch #8544
INVESTIGATING OFFICERS: Lieutenant Daniel Shivers #6842

BASIS FOR INVESTIGATION:

On September 15, 2020, Sheriff's Office Command Staff received a Supervisor Investigation Report from Sergeant Jason Hattaway; which detailed an incident involving an accidental discharge of Deputy Joshua Patsch's agency issued firearm. The accidental discharge occurred in the rear, passenger seat, of an unmarked law enforcement vehicle, during a stolen vehicle apprehension.

Due to the nature of the allegations, Chief Deputy J. Gallagher initiated an internal affairs investigation.

OFFENSES:

This investigation is relevant to an alleged violation of Department Standards Directives and Volusia County Merit Rules and Regulations:

Volusia County Merit System Rules and Regulations 86-453. *This violation may be sufficient grounds for disciplinary action ranging from oral reprimand to dismissal, depending on the seriousness of the offense and other circumstances related to the situation.*

RE: (1) Willful neglect in the performance of the duties of the position to which the employee is assigned.

(9) Any conduct, on or off duty that interferes with effective job performance or has an adverse on the County.

(12) Incompetent or unsatisfactory performance of duties.

(22) Any other conduct or action of such seriousness that disciplinary action is considered warranted.

Volusia Sheriff's Office Standards and Directives -

26.2.41 Negligence Associated with Safety of Persons or Property - Employees shall be attentive to job duties and shall not violate official Directives, orders, supervisory instructions, or knowingly refrain and cause another to refrain from the performance of lawful duties required for the safety of persons or property. *(Violation subject up to a demotion.)*

26.2.94 Use and Handling of Weapons - Employees shall use or handle weapons in a careful, safe and prudent manner on and off duty. Weapons shall be used in accordance with the law and VSO Directives. *(Violation subject up to a 5 day suspension.)*

26.2.133 Repeated failure to maintain necessary skills, knowledge and abilities after counseling and instruction shall result in increasing the severity of disciplinary actions. *(Violation subject up to dismissal.)*

26.2.137 Subsequent violations and recurrent failure to maintain and demonstrate knowledge of Directives, rules & regulations or standard operating procedures may be cause for dismissal.

INVESTIGATIVE SUMMARY:

On September 30, 2020, Chief Deputy Joseph Gallagher assigned the above incident to the Internal Affairs Unit. This report details the Internal Affairs investigation conducted by Lieutenant Daniel Shivers.

On September 15, 2020, Sheriff's Office Command Staff received a Supervisor Investigation Report from Sergeant Jason Hattaway; which detailed an accidental discharge of Deputy Joshua Patsch's agency issued firearm. The accidental discharge occurred in the rear, passenger seat, of an unmarked law enforcement vehicle, during a stolen vehicle apprehension.

On October 1, 2020, Deputy Patsch was served with a Notification of Internal Investigation, along with a copy of his Officer Bill of Rights.

Based on the supervisor investigation authored by Sergeant Hattaway, the following information was obtained by Lieutenant Shivers:

On September 15, 2020, at 1342 hours, A Holly Hill Police Department officer spotted a stolen van pulling into the parking lot of the Volusia County Branch Jail. Several deputies, and Daytona Beach Police Officers, responded to the area in anticipation of apprehending the driver, and recovering the stolen vehicle.

While staging in the area, Sergeant Hattaway requested Daytona Beach Police Officer Edward Lee use his unmarked patrol vehicle, a silver in color, Chevrolet Impala, to make a tactical approach on the stolen minivan. Sergeant Hattaway requested Officer Lee transport the following deputies in his unmarked vehicle: Deputy Lonnie Feaster, [front seat passenger] Deputy Timothy Maxwell [rear seat passenger side], and Deputy Patsch [rear seat driver's side].

As Officer Lee and deputies approached the parking lot, the van began backing out of its parking space. Officer Lee maneuvered his vehicle directly in front of the van, as it was backing out, and parked tactically to prevent it from fleeing. Lieutenant Cody Cochran, who responded while deputies were staging, parked his vehicle directly behind the stolen van to prevent it from fleeing in the other direction.

Upon parking the vehicle Officer Lee, and Deputy Feaster, exited through their respective doors, and began engaging the occupants within the stolen vehicle; however, Deputy Patsch and Deputy Maxwell were unable to open their doors due to the child safety locks being activated. While Deputy Patsch and Deputy Maxwell attempted to open their doors, Deputy Maxwell began attempting to climb between the two front seats to exit the vehicle through one of the open front doors.

As Deputy Maxwell was attempting to climb through, he sat back, and his left hand grabbed Deputy Patsch's right arm. At this time, Deputy Patsch's Glock firearm discharged one round into the lower driver's seat of the vehicle. Deputy Maxwell and Deputy Patsch were able to eventually exit the vehicle; Deputy Maxwell through the front passenger door, and Deputy Patch through the rear driver's side door after it was opened by Officer Lee.

The driver of the vehicle was apprehended without further incident. Deputy Patsch notified Sergeant Hattaway of the accidental discharge immediately after the driver was apprehended. Sergeant Hattaway interviewed Deputy Maxwell, who advised he had no independent recollection of grabbing Deputy Patsch's arm when he climbed over the seat, but stated it was plausible.

No injuries were reported as a result of the accidental discharge, and only minor property damage was observed to the rear driver's seat of the vehicle. A projectile was not recovered; however, a spent shell casing was located on the ground, just outside the rear passenger's door of the vehicle.

All three deputies within the vehicle were equipped with body worn cameras. Each deputy had their body worn camera activated for the duration of the stolen vehicle call.

Volusia Sheriff's Office Original Report – 200013365

Deputy Patsch completed an "information" report on September 15, 2020. In the report, Deputy Patsch detailed the events leading up to the accidental discharge, along with his involvement. Deputy Patsch wrote the following in his report –

“Upon making positive contact with the stolen vehicle, nose to nose, Deputy Patsch endeavored to quickly exit the CST vehicle in an attempt to assist in conducting the high risk felony traffic stop on the stolen vehicle. When Deputy Patsch grabbed the door handle to exit the vehicle the door failed to open. Deputy Patsch vigorously attempted to exit the vehicle via the door handle multiple times prior to determining he was stuck in the vehicle. Deputy Patsch had been taught during his Field Training and Evaluation Program (FTEP) portion of his training with the VSO, being in a vehicle is synonymous with being in a coffin when involved in a high risk situation such as a conducting a high risk felony traffic stop while nose to nose with the suspect vehicle.

After all attempts to safely and quickly exit the vehicle were exhausted Deputy Patsch removed his agency issued firearm as a last effort to protect himself from the impending escalating volatile situation. With no way to escape the vehicle, Deputy Patsch decided to maintain his firearm at the low ready position beside his right leg. This action was taken due to the likelihood a high risk felony traffic stop subsequently resulting in a shoot out with the vehicle which was face to face with the CST vehicle Deputy Patsch was trapped inside of at the time. While Deputy Patsch was holding his firearm at the low ready position he was startled by Deputy Maxwell who forcefully grabbed his right forearm. Deputy Patsch's involuntary muscular reflex was clench his fist upon being grabbed by Deputy Maxwell. This action directly resulted in an accidental discharge of his agency issued firearm into the rear of the front driver seat of the CST patrol vehicle he was trapped inside of. No person were injured as a result of this action and only minor property damage was reported, upon inspection of the CST vehicle.”

Deputy Patsch authored and submitted the report on September 15, 2020, at approximately 1828 hours; however, it was “unapproved by owner” and resubmitted on September 18, 2020 at 1427 hours. The report was supervisor approved by Sergeant Hattaway on September 23, 2020.

Volusia Sheriff's Office Body Worn Camera Footage

Lieutenant Shivers reviewed body worn camera footage by Volusia Sheriff's Office Sergeant Jason Hattaway, Deputy Lonnie Feaster, Deputy Timothy Maxwell, and Deputy Patsch. Below is a summation of the body worn camera footage:

Deputy Patsch's BWC Video

Lieutenant Shivers observed three total body worn camera videos recorded by Deputy Patsch regarding the incident, with the first beginning at 1406 hours on September 15, 2020. Below is a summary of relevant findings from the first video footage –

It was observed Deputy Patsch's body worn camera is affixed to the right side of his collar, so it records footage at Deputy Patsch's chin level.

Deputy Patsch enters the rear driver's side of Daytona Beach Police Officer Lee's unmarked Chevrolet Impala. Officer Lee, Deputy Feaster, and Deputy Maxwell are observed entering the vehicle a few moments after Deputy Patsch. They subsequently leave the parking lot of Stewart Marchman and drive towards the Branch Jail.

Upon arrival to the jail parking lot, Officer Lee maneuvers through the parking lot, and travels down the lane where the stolen van was beginning to back out. At minute mark 2:17, Officer Lee places the vehicle in park, and all of the deputies, along with Officer Lee, begin exiting the vehicle. Deputy Patsch is unable to exit the vehicle due to the door not opening.

At minute mark 2:19, a gunshot is heard on the video; however, due to the camera position on Deputy Patsch's collar mount, Deputy Patsch's firearm is not in view.

At minute mark 2:25, Deputy Patsch is let out and he moves to a position of cover behind a vehicle parked in the parking lot.

At minute mark 3:43, Deputy Patsch approaches Sergeant Hattaway and states, *"We need to have a talk"* and the two walk away from the stolen vehicle to have a conversation. During the conversation, Deputy Patsch states the following:

"We couldn't get out of the Impala, [Deputy] Maxwell grabs my arm. When he grabs my arm, it flinches on the gun, gun goes off inside the car."

Sergeant Hattaway asks Deputy Patsch, *"You AD'd [accidentally discharged] in the car?"* at which time Deputy Patsch responded by shaking his head yes. Deputy Patsch then stated, *"We*

couldn't get out because of the child safety locks on the back, went to get out, couldn't get out, Maxwell grabs my arm, flinch reflex." Deputy Patsch was asked by Sergeant Hattaway, "How does he grab your arm?" at which time Deputy Patsch states, "We're sitting next to each other in the back seat." Sergeant Hattaway asks, "Why is he grabbing your arm?" at which time Deputy Patsch indicated he didn't know, and states –

"All I know is I feel something on my arm so I flinched, and that's when it happened. Cause we had guns out ready to go out because we thought the doors were gonna open, but they didn't...So, that's what we need to talk about."

A few moments later, at minute mark 4:59, Deputy Patsch, while speaking with Daytona Beach Police Officer Lee, who is looking for the bullet hole in the back of his vehicle, stated, "Cause I had it out to come out, and Maxwell grabbed my arm and we couldn't get out, and then the flinch reflex" at which time Officer Lee stated, "I don't know, it scared the shit out of me..." Deputy Patsch went on to state, "Oh I gotcha, I was trying to get out and the next thing I know he grabbed my arm."

At minute mark 5:21, Lieutenant Bryan Barnard, who had just been advised of the accidental discharge, asked Deputy Patsch how the accidental discharge happened, at which time Deputy Patsch stated, "We all, guns out, ready to get out. Open the car door, gun out, car door doesn't open."

Lieutenant Barnard asked Deputy Patsch, "So basically when you were jumping out you had an AD?" at which time Deputy Patsch stated,

"So we went to jump out, the car doors were locked on us because of the child safety locks. Prepared to jump out, can't, Maxwell grabs my arm like this [demonstrates a gripping motion with his right hand], my guns in my hand in the Sul position, flinch, and that's what happened."

It should be noted, the word "Sul" means 'south' in the Portuguese language and is a ready-to-shoot platform designed for situations that require a neutral position, or those without an established threat. The "Sul position" is generally achieved by holding your support hand against your abdomen or chest, strong hand holding the gun in a firing grip with the muzzle pointing down (away from body parts), and resting on the top of the support hand with thumbs touching. This position generally allows shooters to engage targets more quickly than when drawing from a holster.

At minute mark 6:59, Deputy Patsch is speaking with other deputies and Daytona Beach Police officers. During this conversation, Deputy Patsch states –

“We couldn’t get out of the car, had the gun in the Sul position to get out, coz we were all getting out of the car coming at us. When we couldn’t get out, Maxwell grabbed my arm [and demonstrates by grabbing his right wrist with his left hand] and when he grabbed my arm I had a flinch reaction, because someone grabbing my arm that I didn’t expect, and went in on the trigger guard and pulled.”

At minute mark 9:52, Daytona Beach Police Officer Lee stated, *“I thought it [the gunshot] came from the car [the stolen vehicle] into the ground. But I looked, the glass isn’t broken...I didn’t get fucking hit, I’m standing right here, so...”* at which time Deputy Patsch states, *“Yea that was we couldn’t get out, I guess Maxwell’s reaction was to grab me [Deputy Patsch is observed making a grabbing motion with his right hand], when he grabbed me I already had the gun in the Sul position thinking we were getting out of the car [Deputy Patsch is observed moving his right hand up towards his chest to demonstrate a Sul position]...Next time we will know to check the doors to make sure we can get out.”*

At minute mark 11:42, Sergeant Hattaway asks Deputy Patsch why he had his finger on the trigger, at which time Deputy Patsch responds with, *“I didn’t, I had it out but when I felt the flinch, it went in instinctively. And that’s what happened. Cause I wasn’t expecting anyone to touch me.”*

Deputy Patsch’s body worn camera is deactivated at minute mark 13:13.

Deputy Patsch’s second body worn camera video was recorded on September 15, 2020, at approximately 1424 hours, and does not contain any pertinent statements or actions. It is mostly video of Deputy Patsch completing the arrest affidavit in his vehicle with his female prisoner. The video is deactivated at minute mark 45:15.

Deputy Patsch’s third body worn camera video was recorded on September 15, 2020, at approximately 1515 hours. This video contains Deputy Patsch transporting the female prisoner from the parking lot to the sally port of the Branch Jail, and contains no pertinent statements or actions. The video is deactivated at minute mark 04:59.

Deputy Maxwell’s BWC Video

Lieutenant Shivers observed one body worn camera video recorded by Deputy Maxwell regarding the incident, which began at 1406 hours on September 15, 2020. Below is a summary of relevant findings from the video footage –

It was observed Deputy Maxwell’s body worn camera is affixed to the right side of his head, so it records footage at Deputy Maxwell’s eye level.

Deputy Maxwell enters the rear passenger side of Officer Lee's unmarked Chevrolet Impala, to the right of Deputy Patsch. Deputy Maxwell travels with Officer Lee, Deputy Feaster and Deputy Patsch into the parking lot of the Volusia County Branch Jail. Up to this point, Deputy Maxwell's video is consistent with the sequence of events leading up to Deputy Patsch's accidental discharge detailed above.

At minute mark 2:12, Deputy Maxwell is observed attempting to open the rear passenger side door, to no avail.

At minute mark 2:14, Deputy Maxwell looks forward and his left hand is observed in the air between he and Deputy Patsch. At this time, Deputy Patsch's firearm is in view, and a reddish-orange flame is seen coming from the end of the barrel; signifying Deputy Patsch's firearm is being discharged.

It should be noted, Deputy Maxwell is not observed at any time grabbing or touching Deputy Patsch prior to the discharge of Deputy Patsch's firearm.

Deputy Maxwell is observed moving his body away from Deputy Patsch, and subsequently climbing between the two seats to exit the vehicle through the open passenger side front door. Deputy Maxwell then maneuvers himself around some parked vehicles and then approaches Lieutenant Cochran who was actively calling back the driver of the stolen vehicle. Deputy Maxwell secures the driver in handcuffs, and stands with her for a few minutes until the scene is secured.

At minute mark 7:29, Deputy Maxwell motions to Sergeant Hattaway to speak to him, at which time Sergeant Hattaway approaches him. Deputy Maxwell states to Sergeant Hattaway, "*Hey. My ear hurt*" at which time Sergeant Hattaway asks Deputy Maxwell what happened.

Deputy Maxwell stated, "*Shit, I don't know? We were comin to get out, and it went off. I just heard the shot. So, I didn't see.*" Sergeant Hattaway then advised, while holding his right hand in a "Sul position" manner in front of his stomach, "*He said he was holding his gun over here, and he was trying to get the door open, and said he felt you grab his arm and he fucking fired.*"

During this time, Deputy Patsch is observed walking up behind Sergeant Hattaway and stood beside Sergeant Hattaway. After hearing Sergeant Hattaway describe what Deputy Patsch told him, Deputy Maxwell stated, "*Yea, cause the way he, he pulled up here, like we kinda...and I, we both pulled our door at the same time, and it didn't go, so I, I guess I just put my hand up.*"

Deputy Patsch interjects into the conversation by saying, "*Yeah, I think it was instinct on your part to grab me, but now we're face to face with a car with a felony vehicle.*"

Deputy Maxwell did not have any further pertinent conversations or involvement regarding this incident. His further involvement was dealing with the children within the stolen vehicle and Deputy Patsch's female prisoner.

Deputy Maxwell's body worn camera is deactivated at minute mark 36:36.

Deputy Feaster's BWC Video

Lieutenant Shivers observed two body worn camera videos recorded by Deputy Feaster regarding the incident, which began at 1358 hours on September 15, 2020. Below is a summary of relevant findings from the video footage –

It was observed Deputy Feaster's body worn camera is affixed to the right side of his collar, so it records footage at Deputy Feaster's chin level.

Deputy Feaster enters the front passenger side of Officer Lee's unmarked Chevrolet Impala, to the right of Officer Lee. Deputy Feaster travels with Officer Lee, Deputy Maxwell and Deputy Patsch into the parking lot of the Volusia County Branch Jail. Up to this point, Deputy Feaster's video is consistent with the sequence of events leading up to Deputy Patsch's accidental discharge detailed above.

At minute mark 10:28, Deputy Feaster is startled by Deputy Patsch's accidental discharge, as it is observed he quickly begins to take cover by positioning his body lower behind the patrol vehicle's door while moving backwards. Deputy Feaster's attention is momentarily removed from the stolen vehicle ahead of him due to the accidental discharge. Immediately after the accidental discharge, Deputy Feaster states, "*Woah! Who shot?*" indicating he was unsure of who, where, or why a gunshot was discharged.

Deputy Feaster is observed moving to a better position behind other parked vehicles in the parking lot, and does not have any conversations of significance. Deputy Feaster's first body worn camera video is deactivated at minute mark 12:56.

Deputy Feaster's second video begins at 1414 hours. The video does not provide any pertinent information and his video is deactivated at minute mark 1:48. Deputy Feaster only activated his body worn camera because he contacted the female suspect.

Sergeant Hattaway's BWC Video

Lieutenant Shivers observed one body worn camera video recorded by Sergeant Hattaway regarding the incident, which began at 1347 hours on September 15, 2020. Below is a summary of relevant findings from the video footage –

It was observed Sergeant Hattaway's body worn camera is affixed to the right side of his head (via hat mount), so it records footage at Sergeant Hattaway's eye level.

At minute mark 18:15 hours, Sergeant Hattaway organizes the plan to have deputies ride with Officer Lee into the parking lot of the Volusia Branch Jail in his unmarked vehicle.

Sergeant Hattaway follows Officer Lee's vehicle in his issued patrol vehicle, and as they entered the parking lot, Sergeant Hattaway positions his vehicle to the side of Officer Lee's vehicle.

At minute mark 22:55, Deputy Patsch approaches Sergeant Hattaway and has the aforementioned initial conversation with him regarding the accidental discharge (see Deputy Patsch's body worn camera section for statements).

Sergeant Hattaway walks to Officer Lee's patrol vehicle, and then notifies Lieutenant Barnard of the accidental discharge. At minute mark 24:23, Sergeant Hattaway advised Lieutenant Barnard, *"We got an A D inside the patrol car."* Lieutenant Barnard responds, stating, *"Of what?"* Sergeant Hattaway states, *"Handgun...Patsch's handgun."* Lieutenant Barnard asked, *"How'd that happen?"* at which time Deputy Patsch made the aforementioned statements to Lieutenant Barnard as to what happened (see Deputy Patsch's body worn camera section for statements).

Sergeant Hattaway then looks, and locates the bullet hole in the back of the front driver's seat of Officer Lee's patrol vehicle.

At minute mark 30:51, Sergeant Hattaway asks Deputy Patsch why his finger was on the trigger, and Deputy Patsch responds by stating, *"I didn't, I had it out but when I felt the flinch, it went in instinctively. And that's what happened. Cause I wasn't expecting anyone to touch me."*

Sergeant Hattaway had no further pertinent actions or conversations on video. Sergeant Hattaway's body worn camera video is deactivated at minute mark 31:58.

Daytona Beach Police Officer Lee's BWC Video

Lieutenant Shivers requested Daytona Beach Police Officer Lee's body worn camera footage through the Daytona Beach Police Department. Lieutenant Shivers was provided one body worn camera video recorded by Officer Lee regarding the incident. Lieutenant Shivers observed the

video began at 1406 hours on September 15, 2020. Below is a summary of relevant findings from the video footage –

It was observed Officer Lee’s body worn camera is affixed to the center of his outer ballistic vest, so it records footage at his chest level.

Officer Lee enters the front drivers’ seat of his unmarked Chevrolet Impala, to the left of Deputy Feaster. Officer Lee drives Deputy Feaster, Deputy Maxwell and Deputy Patsch into the parking lot of the Volusia County Branch Jail. Up to this point, Officer Lee’s video is consistent with the sequence of events leading up to Deputy Patsch’s accidental discharge detailed above.

At minute mark 1:19, a gunshot is heard on the video, and Deputy Feaster is heard yelling, “*Woah! Who shot?*” Officer Lee then approaches the stolen vehicle and then takes a tactical position while the stop is conducted.

Once the stop is completed, Officer Lee walks back to his vehicle and deactivates his camera at minute mark 2:39.

Lieutenant Shivers and Internal Affairs Sergeant Brian Cobb conducted interviews with Volusia Sheriff’s Office Sergeant Jason Hattaway, Deputy Lonnie Feaster, and Deputy Timothy Maxwell, and Daytona Beach Police Officer Lee regarding the incident. Below is a summary of their statements.

Deputy Lonnie Feaster

On October 5, 2020, Lieutenant Shivers and Sergeant Cobb conducted a sworn recorded interview with Deputy Lonnie Feaster at the Deputy Stephen Saboda Training Center, Daytona Beach.

Lieutenant Shivers asked Deputy Feaster to describe what happened during the incident, at which time Deputy Feaster advised he got into the vehicle with Deputies Patsch and Maxwell, and upon making contact with the stolen vehicle –

I got out, drew my weapon. Started issuing commands to the driver, which I saw was a female. I saw both of her hands going up she was compliant and then I heard a shot ring out so I questioned who had fired because I wanted to make sure that I wasn’t missing somebody pointing a gun at us and I knew my female had her hands up so she wasn’t getting shot. So then afterwards I was told it was Patsch who had fired and that they didn’t check their backdoors evidently and they were trapped in the back of the vehicle with all this going on and according to him he had his gun in his hand and Dep. Maxwell for some reason grabbed his arm causing him to reflexibly squeeze his trigger.

Deputy Feaster advised Deputy Patsch told him “in passing” that Deputy Maxwell grabbed him causing him to pull his trigger.

Deputy Feaster advised the accidental discharge of Deputy Patsch’s firearm caused brief stress for him, and made him unsure of if there were additional threats inside the stolen vehicle.

Deputy Feaster advised he was focused on the stolen vehicle, and had no further observations of Deputy Patsch’s actions prior to the accidental discharge. Additionally, Deputy Feaster advised he did not converse further with Deputy Patsch because he “...*knew if it was an AD where it was gonna end up* [internal affairs investigation] *so I tried to minimize my involvement in it.*”

Sergeant Jason Hattaway

On October 7, 2020, Lieutenant Shivers and Sergeant Cobb conducted a sworn recorded interview with Sergeant Hattaway at the District 3-North office in Ormond Beach.

Sergeant Hattaway advised during the incident, Deputy Patsch advised him that he accidentally discharged his firearm while inside of the Daytona Beach Police’s unmarked vehicle. Lieutenant Shivers asked Sergeant Hattaway if Deputy Patsch provided him any explanation as to how or why he accidentally discharged his firearm, at which time Sergeant Hattaway stated –

“Upon asking a couple questions on there, he said that basically when he was in the vehicle he, the child locks were on the back of the unmarked and he couldn’t open up the doors the backdoors were secured. He said he was nose to nose with a stolen vehicle with positive contact, he was in his words trapped in the car. He un-holstered his weapon had it a low-ready, he said Dep. Maxwell was in the backseat in the other backseat with him, attempted to climb out of the, out of the car through via the front and ended up grabbing his arm and at that point his firearm discharged into the driver’s seat at about a 80 degree downward trajectory.”

Lieutenant Shivers asked Sergeant Hattaway if he watched the body worn camera footage regarding the incident, at which time Sergeant Hattaway advised he did. Sergeant Hattaway was asked if he observed Deputy Maxwell grab Deputy Patsch’s arm before or after the gunshot, at which time Sergeant Hattaway stated, “*You couldn’t see.*”

Sergeant Hattaway advised he spoke with Deputy Maxwell during the supervisor investigation he was conducting, and Deputy Maxwell advised he did try to climb out of the seat, but “*was unsure if he grabbed Deputy Patsch when he climbed out of the seat.*” Sergeant Hattaway advised even though Deputy Maxwell authored a report indicating he did grab Deputy Patsch’s arm, Sergeant

Hattaway recalled that Deputy Maxwell was unsure, and “...said it was probable that he did grab his arm but was not 100%.”

Sergeant Hattaway reaffirmed that he watched Deputy Maxwell’s body worn camera footage during his supervisor’s investigation.

Sergeant Hattaway was asked during his supervisor investigation if he observed the statements made by Deputy Patsch match what he wrote in his report, at which time Sergeant Hattaway advised, “Yes, he had some initial report, he had a little bit of a justification in there and I basically said that needs to be addressed when we do an investigation.”

Lieutenant Shivers asked Sergeant Hattaway, “Was that because you had, you needed stuff for your investigation or he needed to clarify things in his report or you saw something that was needed to be changed? Or was it something that he changed on his own?” at which time Sergeant Hattaway stated, “There was some things that he had in there about sympathetic reflex that was not applicable to this scenario...and we, I instructed him to look up sympathetic reflex and he understood that that didn’t apply so he actually took that out of the report.”

Lieutenant Shivers advised Sergeant Hattaway that when he watched the body worn camera he observed it did not appear Deputy Maxwell grabbed Deputy Patsch prior to the gunshot and asked Sergeant Hattaway if he noticed that on Deputy Patsch or Deputy Maxwell’s body worn camera, at which time Sergeant Hattaway advised, “I did not.”

Lieutenant Shivers confirmed Sergeant Hattaway’s supervisors investigation was based on his perception of what he observed on the body worn cameras and statements made by Deputies Patsch and Maxwell, and the reports submitted.

Sergeant Cobb asked Sergeant Hattaway if Deputy Patsch had any plausible answer as to why he had his finger on the trigger of his firearm, at which time Sergeant Hattaway stated –

“He said, he said his finger was indexed. The only thing, and I mean this is pure...Well, the only thing I can say that, you know, just speculating is that when he had it indexed it was on, on the trigger guard, not the slide and then when he was startled maybe the finger came off the trigger guard into the trigger that’s the only thing I can think of if he had his finger indexed...”

Sergeant Hattaway advised Deputy Patsch did not make any statements that contradicted what he told him during the supervisor’s investigation, and that Deputy Patsch, “He obviously, yeah, he took ownership of it. He knew that he messed up.”

Daytona Beach Police Officer Edward Lee

On October 8, 2020, Lieutenant Shivers and Sergeant Cobb conducted a sworn recorded interview with Daytona Beach Police Officer Edward Lee at the Deputy Stephen Saboda Training Center, Daytona Beach.

Officer Lee advised he was driving the vehicle, and since he was focused on driving and the stolen vehicle, he did not have any observations on Deputy Patsch's actions during the incident. He did state that while he was exiting the vehicle, he heard a "loud pop," but stated he did not know where it came from. He stated he did a "...quick assessment of the suspect vehicle, didn't see any holes or anything, so I didn't believe that they were shooting at us. I believe there was some other accident."

When asked if during the time the accidental discharge happened if he had any fear that he was being fired upon or something else was happening, and Officer Lee stated -

"I figured it was just an accident. I wasn't even aware that it was an actual AD at the time I just heard a pop. I just wanted to make sure the suspect wasn't shooting at us, there was no broken glass; nothing like that, so I figured I don't know, maybe a tire or it could have been an AD, at the time I had no clue."

Officer Lee advised he spoke briefly with Deputy Patsch after the incident, but did not recall the substance of the conversation.

Deputy Timothy Maxwell

On October 9, 2020, Lieutenant Shivers and Sergeant Cobb conducted a sworn recorded interview with Deputy Maxwell at the District 3-South office in New Smyrna Beach.

When asked to describe his involvement and what happened during the incident, Deputy Maxwell stated –

"My involvement is I was a part of the take down team. We, the sergeant told us Daytona CST helped us out on this call as well. One of the guys I believe his name was Edward Lee he had an unmarked vehicle at the time so our sergeant instructed us to load up in his vehicle to make contact with the signal 10. Officer Lee was the driver, the front passenger was Lonnie Feaster and rear driver's side passenger was Dep. Patsch and I was rear passenger side. We met at SMA Stewart Marchman, we loaded up there. We entered the branch jail's parking lot where we saw the vehicle backing out at the time. We approached the vehicle from the west and then Officer Lee made contact, made positive contact with the vehicle. At which time Officer Lee and Dep. Feaster exited the vehicle, then myself and Dep. Patsch attempted to exit the vehicle but the child safety locks

were on. At that time my mindset was to get out of the vehicle so I attempted to climb between the driver and the passenger seat. I did grab on to Dep. Patsch's like shoulder bicep area. At the time that I grabbed him I heard his firearm discharge. At the time I could see the hole, the bullet go into the back of the driver's seat, it was like towards the base but I guess given everything that's going on at the time I checked myself to make sure I wasn't shot at the time. Then I climbed through the seats, got out, came up on target, went around the rear of the vehicle to where Lt. Cochran was. I was the receiving team. At that time I apprehended the driver and placed her in handcuff. And that's my recollection of the incident."

Lieutenant Shivers asked Deputy Maxwell how certain he was that he grabbed Deputy Patsch's arm before the accidental discharge, and if it is something he specifically recollected, at which time Deputy Maxwell advised it was something he had "*Been told over time.*" Lieutenant Shivers asked, "*Been told over time and just you know or do you, is that what you actually remember happening or is that just something that you believe happened because this is kind of what you were told?*" at which time Deputy Maxwell stated, "*It's something that I believed happened because I was told.*"

Lieutenant Shivers clarified by asking, "*Ok so you don't, like in your report you wrote in there that you grabbed him but you don't specifically recollect that, that's not what you 100% can honestly testify to say in court and say that you grabbed his arm. That's kind of what you deduced and what you came to the conclusion that happened is that what you're saying?*" at which time Deputy Maxwell stated, "*Yes.*"

Lieutenant Shivers asked Deputy Maxwell how he came to that conclusion, to which Deputy Maxwell replied, "*I know that, that I had to base my left hand somewhere to push myself out given me being in full equipment. And I don't remember like clenching.*"

Deputy Maxwell confirmed his recollection of events was skewed as to what actually happened.

Deputy Maxwell was asked if Deputy Patsch told him he grabbed his arm, at which time Deputy Maxwell stated, "*He said that I grabbed his arm. That's what he told me. Just watching my BWC I don't recall seeing me grab, you know.*"

Sergeant Cobb asked Deputy Maxwell, "*When he told you that you grabbed his arm, what was your response?*" at which time Deputy Maxwell stated –

"I mean I don't remember my response exactly, but my thoughts were if he said that I did, then I must have. I mean I've got a pretty good relationship with him, I don't think that he would lie about it and but I don't remember like I said clenching. So I mean from the time you know to me I guess grabbing his arm, seeing the, hearing the gun go off, me looking at him you know and then

me checking myself it felt like 10, 15, 20 seconds but watching the BWC it was only four seconds from the time the shot went off, me looking at him and me checking myself and me getting out of that car so. I mean that's all that I can recall"

Deputy Maxwell advised he wrote his report utilizing a combination of what he personally recalled, the statements made, and his own conclusions.

Lieutenant Shivers specifically asked Deputy Maxwell, *"You did not intentionally write something in your report that was false information?"* at which time Deputy Maxwell advised, *"Absolutely not."* Lieutenant Shivers stated, *"It was all based on what you recalled and statements that were made and you didn't specifically watch your BWC with the intention of utilizing that information that you watched in your report."* at which time Deputy Maxwell stated, *"Absolutely not."*

Lieutenant Shivers asked Deputy Maxwell *"Conversations with Dep. Patsch during the incident or after the incident, did he say anything? Like how did you, how did you know you grabbed him? You said that he told you that, like what did he say do you know?"* at which time Deputy Maxwell stated –

"I remember once I had the, the lady 10-15, well had her secured in handcuffs and I think he briefly said something to the sergeant about an AD or something. And he, I don't know if I asked him what happened but he said that I grabbed his arm, like here and you know it's not like we had a debate or an argument about it, you know, it was just kind of like a 'Hey what the fuck happened?' type deal. And he was like, 'You grabbed my arm' and you know I was like..."

Sergeant Cobb asked Deputy Maxwell if he were to grab Deputy Patsch's arm, should it have caused Deputy Patsch's firearm to discharge, at which time Deputy Maxwell stated, *"No."*

Lieutenant Shivers asked Deputy Maxwell if the stolen vehicle and the potential threats within warranted removing a firearm prior to exiting the patrol vehicle, at which time Deputy Maxwell stated –

"I would say no given that there were probably seven guns on that car. I mean, you had, I know Cody [Lieutenant Cody Cochran] had his gun out, I know Sergeant Hattaway was there and at that time I knew that Lonnie [Deputy Feaster] was there, I mean, I'm pretty confident in his skill set with him being a SWAT member. I know that Daytona, the Daytona officer had the car covered."

Lieutenant Shivers asked Deputy Maxwell, *"When the gunshot went off did like how did you feel like did it obviously it concerned you you said you checked yourself but like did it like just can you explain to me how you felt when it went off?"* at which time Deputy Maxwell stated –

“I was pissed coz it’s like you know it was, it was kind of like a ‘what the fuck’ moment you know. I know that the only way a gun is gonna go off in somebody’s hand is if they squeeze the trigger. I mean in my line of work I’m not, I’m indexing all the time. I’m not putting pressure on the trigger unless I’m getting ready to shoot someone. Not something but someone and I don’t know what happened there. I don’t know how his nerves are I know that people are different, level of fear is different but I know that I’m not putting pressure on the trigger until I’m getting ready to shoot someone.”

Deputy Maxwell advised he couldn’t hear for approximately 15 minutes following the accidental discharge. He advised he recovered fully since the incident.

Deputy Joshua Patsch

On October 22, 2020, Lieutenant Shivers and Sergeant Cobb conducted a sworn interview with Deputy Patsch at the Volusia Sheriff’s Office administration building in DeLand. Also present within the interview was IUPA Attorney Gary Wilson. Below is a summary of that interview:

Deputy Patsch was sworn in by Lieutenant Shivers and signed an “Advisement of Rights for a Disciplinary Interview Garrity Warning” form; which Deputy Patsch understood.

Lieutenant Shivers asked Deputy Patsch to describe what happened in the call, at which time Deputy Patsch stated the following:

“I was dispatched over the radio by my sergeant to a call involving a Holly Hill police officer who had located what he believed to be a stolen vehicle traveling westbound on International Speedway Boulevard towards the jail. That Holly Hill officer had an inmate in his custody but chose to follow the vehicle and keep eyes on it at the jail until other resources were able to arrive. Upon my arrival I staged at the area of SMA mental health facility where I met with K9 sergeant as well as my patrol sergeant and multiple other responding deputies. At which time there were decisions made outside of my control that led us to putting three deputies inside of an unmarked Daytona Beach Police vehicle to make an apprehension of the confirmed stolen vehicle that was sighted by the Holly Hill officer which was at that time parked inside the Volusia County Branch Jail parking facility. We made our approach at which time during the approach prior to committing any kind of a traffic stop we crashed into the vehicle prior to giving any chance for the vehicle to possibly voluntarily surrender itself etcetera by conducting a normal traffic stop as we would call it. We crashed into the vehicle, we attempted to do a high risk traffic stop by exiting the vehicle, requesting all parties of the other vehicle to exit the vehicle etcetera to take control of the scene and subsequently recover the stolen vehicle. At which time I tried to exit my vehicle along with the other deputies who I was with. Myself and the deputy next to me Dep. Maxwell were unable

to exit our vehicles. The reason being later determined that the child safety locks were on in the rear of the vehicle causing us not to be able to exit the vehicle when we pulled on the interior door handle. While being stuck inside the vehicle we notified units who were outside that we were in fact stuck in the vehicle and were in a dangerous position due to the fact we were only give or take 30 feet away from someone committing a felony in our presence. With that being said I chose that the situation was a high enough threat level to pull my weapon and place it at the low ready beside myself waiting for any further risk assessment that might have taken place from the people inside the vehicle who we had crashed into. While inside the vehicle Dep. Maxwell chose to try and exit the vehicle via the front passenger side open door. In doing so he grabbed my arm causing an involuntary muscle contraction which caused my hand to form into a fist involuntarily and in doing so the gun went off causing an accidental discharge of my duty issued firearm. At which point we were able to finally exit the vehicle. He exited via the front passenger open door. I exited via the rear door which was opened for me by another officer. We exited the vehicle, took the subject into custody who was in control of the stolen vehicle at which point I notified my sergeant of what had happened in the vehicle in regards to the accidental discharge.”

Lieutenant Shivers was advised by Deputy Patsch that he reviewed only his body worn camera prior to authoring his report; however, he advised he did see portions of Deputy Maxwell’s body worn camera footage as Sergeant Hattaway was reviewing it.

Prior to, and during the interview, Deputy Patsch was able to review Deputy Maxwell’s body worn camera footage. Deputy Patsch also reviewed an enhanced version of Deputy Maxwell’s body worn camera footage, which was previously enhanced by the Florida Department of Law Enforcement’s Electronic Surveillance Support Team at the Orlando Regional Operations Center. This enhanced footage also contained frame-by-frame still photographs of the incident.

While reviewing the enhanced body worn footage, Deputy Patsch contended that Deputy Maxwell grabbed his arm, causing the involuntary reaction in his hand to fire his weapon.

Deputy Patsch then reviewed his own body worn camera footage from the incident, at which time Deputy Patsch realized Deputy Maxwell did not grab his arm prior to the accidental discharge. Deputy Patsch, while reviewing his body worn camera footage, stated, *“It does appear evident that his hand never was close enough to grab my arm.”*

Deputy Patsch later advised, *“I understand I pulled the trigger. How, why, what caused it up until approximately two minutes ago I believed Deputy Maxwell grabbed my arm. At this point I’ve now determined that it doesn’t appear he grabbed my arm.”*

Lieutenant Shivers observed Deputy Patsch, after having the opportunity to review all body worn camera footage during the administrative interview, concluded that Deputy Maxwell did not grab his arm causing the accidental discharge.

It was observed by Lieutenant Shivers that Deputy Patsch truly believed Deputy Maxwell grabbed his arm causing him to have an accidental discharge up to, and during the interview. Lieutenant Shivers observed Deputy Patsch's statements were not untruthful; however, they were inaccurate due to his recollection of events during the highly stressful situation. Additionally, Lieutenant Shivers observed Deputy Patsch's written report was based on this same recollection of events, and was not intentionally falsified.

Lieutenant Shivers also observed Deputy Patsch's statements were not disputed by Deputy Maxwell, which further led to Deputy Patsch's recollection of events.

Deputy Patsch was unable to explain how his firearm was accidentally discharged; however, stated, *"At some point I did pull the trigger of the weapon."*

Additionally, Deputy Patsch was asked about what position he held his firearm, and if he removed it prior to the vehicle coming to a stop. Deputy Patsch advised he removed his firearm after determining he was trapped within the vehicle, and that he held his firearm at the "low-ready" position. Deputy Patsch advised he misspoke about having his firearm in the "Sul" position, as his recollection of events immediately after the incident occurred was not accurate due to the stress of what transpired.

During the interview, Deputy Patsch was asked if he violated the following Sheriff's Office directives and Volusia County Merit System Rules and Regulations.

26.2.41 Negligence Associated with Safety of Persons or Property	No
26.2.94 Use and Handling of Weapons	No
26.2.133 Repeated Failure to Maintain Necessary Skills after Counseling Instruction	No
26.2.137 Subsequent Violations and Recurrent Failure to Maintain and Demonstrate Knowledge of Directives, Rules & Regulations or Standard Operating Procedures	No
86-453 Volusia County Merit System Rules and Regulations (1)	No

86-453 Volusia County Merit System Rules and Regulations (9)	No
86-453 Volusia County Merit System Rules and Regulations (12)	No
86-453 Volusia County Merit System Rules and Regulations (22)	No

It was relayed by Attorney Wilson in Deputy Patsch’s administrative interview that Lieutenant Cochran was a potential witness to the incident, and was subject to be interviewed as part of the internal investigation per the State of Florida Law Enforcement Officer’s Bill of Rights. To ensure all aspects of this incident were investigated thoroughly, Lieutenant Shivers and Sergeant Cobb conducted a sworn recorded interview with Lieutenant Cochran on October 30, 2020, at the Deputy Stephen Saboda Training Center, Daytona Beach to determine his involvement.

Below is a summary of the interview:

Lieutenant Cochran was asked to detail his recollection of involvement into the call, at which time Lieutenant Cochran advised he was at the Stephen Saboda Training Center and he heard over the police radio that a stolen vehicle had been spotted, occupied, at the Volusia County Branch Jail. Lieutenant Cochran advised he responded to the area in his unmarked vehicle and took a stationary surveillance position within the parking lot to maintain visual contact with the stolen vehicle.

He advised the stolen vehicle began to leave the parking lot, so he pulled directly behind the vehicle at the same time Daytona Beach Police Officer Lee came into the parking lot and maneuvered directly in front of the stolen vehicle. He advised he exited his vehicle and was motioned or told by Deputy Feaster to *“take over the felony stop because something happened in the vehicle or something was going on that they needed to address.”* Lieutenant Cochran advised he then took over giving commands to the driver and occupants of the stolen vehicle.

Lieutenant Cochran advised after the scene was secured, he observed, *“...people walking around and...as if something happened I was unaware of, and I asked “What’s going on? I mean, did I miss something?” and it was mentioned that there was an accidental discharge inside the silver Impala by one of our deputies. All I asked was if we were ok, is anyone hurt; they said no and that was it.”*

Lieutenant Cochran advised he did not have any involvement in coordinating the take-down, and did not give direction to any sergeant on how or in what manner to conduct the response.

Lieutenant Cochran was asked if he made “positive contact” with the stolen vehicle, at which time Lieutenant Cochran advised he did; however, the stolen vehicle had already stopped, and the Daytona Beach Police vehicle had already made contact with the stolen vehicle.

Lieutenant Cochran was asked to describe what “positive contact” means, at which time Lieutenant Cochran stated, *“It’s when you, uh, put your bump, the bump, the bumper of a patrol vehicle against, the, the bumper of a felony vehicle to prevent escape.”* Lieutenant Cochran further advised, *“It’s not a ramming, it’s not you’re trying to hurt anybody in the car, or, you know, knock them into another vehicle; It’s simply to stop their vehicle from getting the momentum to either damage your vehicle if they back out and try to go high-speed or leave. It’s basically just a touch to keep the vehicle from, from moving.”*

Lieutenant Cochran advised neither his vehicle nor the stolen vehicle sustained any damage as a result of his actions.

Lieutenant Cochran was asked at the end of the interview if he had any further information he wished to add, at which time he stated, *“Just for the record on the AD portion, I was completely oblivious to it. I had no idea that it happened. I didn’t hear it. I didn’t see it. It wasn’t immediately relayed to me that an AD occurred.”*

Lieutenant Cochran’s statements during his interview corroborate the facts observed in the initial receipt of the investigation that he was not a material witness to Deputy Patsch’s accidental discharge.

Conclusion:

On November 4, 2020, this investigation was presented to Sheriff Chitwood and his staff. After review, Sheriff Chitwood determined the violation of the below listed Departmental Directives and County Merit Rules and Regulations to be:

26.2.41 Negligence Associated with Safety of Persons or Property	Sustained
26.2.94 Use and Handling of Weapons	Sustained
26.2.133 Repeated Failure to Maintain Necessary Skills after Counseling and Instruction	Sustained
26.2.137 Subsequent Violations and Recurrent Failure to Maintain and Demonstrate Knowledge of Directives, Rules & Regulations or Standard Operating Procedures	Sustained
86-453 Volusia County Merit System Rules and Regulations (1)	Sustained

86-453 Volusia County Merit System Rules and Regulations (9)	Sustained
86-453 Volusia County Merit System Rules and Regulations (12)	Sustained
86-453 Volusia County Merit System Rules and Regulations (22)	Sustained

EXHIBITS:

- A. Report of Investigation
- B. Administration of Oath/Perjury Warning/Garrity Warning
- C. Official BlueTeam Report
- D. Official Correspondence
- E. Official Reports
- F. Digital Media
- G. Official Transcripts of Interview with Deputy Lonnie Feaster
- H. Official Transcripts of Interview with Sergeant Jason Hattaway
- I. Official Transcripts of Interview with Officer Edward Lee
- J. Official Transcripts of Interview with Deputy Timothy Maxwell
- K. Official Transcripts of Interview with Lieutenant Cody Cochran
- L. Official Transcripts of Interview with Deputy Joshua Patsch

WITNESSES:

Deputy Lonnie Feaster
Volusia Sheriff's Office
386-736-5961

Sergeant Jason Hattaway
Volusia Sheriff's Office
386-736-5961

Officer Edward Lee
Daytona Beach Police Department
386-671-5100

Deputy Timothy Maxwell
Volusia Sheriff's Office
386-736-5961

Lieutenant Cody Cochran
Volusia Sheriff's Office
386-736-5961

Deputy Joshua Patsch
Volusia Sheriff's Office
386-736-5961

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

AND

I, the undersigned, do hereby swear, under the 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 suspect of the investigation of any rights contained in ss. 112.532 and 112.533, Florida Statutes.

DETECTIVE: [Signature] DATE: 11/09/2020

**Lieutenant Daniel Shivers, 6842
Internal Affairs Detective**

**STATE OF FLORIDA
COUNTY OF VOLUSIA**

Sworn to (or affirmed) and subscribed before me by means of physical presence or online Notarization this 9th day of November, 2020 by Lieutenant Daniel Shivers

[Signature]

SIGNATURE OF NOTARY PUBLIC-STATE OF FLORIDA



PRINT, TYPE, OR STAMP COMMISSIONED NAME OF NOTARY PUBLIC

PERSONALLY KNOWN OR PRODUCED IDENTIFICATION

TYPE OF IDENTIFICATION PRODUCED

APPROVED BY: [Signature] DATE: 11-10-2020

**CHIEF DEPUTY JOSEPH GALLAGHER
VOLUSIA COUNTY, FLORIDA**

Sheriff

MICHAEL J. CHITWOOD

OFFICE
(386) 736-5961



VOLUSIA COUNTY SHERIFF'S OFFICE

123 WEST INDIANA AVE • P.O. BOX 569 • DELAND, FLORIDA 32721-0569
(386) 822-5074 (FAX) • WWW.VOLUSIASHERIFF.ORG

November 17, 2020

Deputy Joshua Patsch, #8544
Volusia Sheriff's Office
SOD / Daytona Beach Annex Courthouse

Final Suspension

Deputy Joshua Patsch:

Volusia County Sheriff's Office Directive 26.2.34 requires that all "Employees shall adhere to all official Directives and/or orders, and shall faithfully execute all the duties and responsibilities of their assigned position." As a result of your actions documented in IA-20-016, I determined you violated the following Sheriff's Office Standards Directive and Volusia County Rules and Merits:

Volusia County Merit System Rules and Regulations 86-453 (1), (9), (12), and (22).
This violation may be sufficient grounds for disciplinary action ranging from oral reprimand to dismissal, depending on the seriousness of the offense and other circumstances related to the situation.

- (1) Willful neglect in the performance of the duties of the position to which the employee is assigned.
- (9) Any conduct, on or off duty that interferes with effective job performance or has an adverse on the County.
- (12) Incompetent or unsatisfactory performance of duties.
- (22) Any other conduct or action of such seriousness that disciplinary action is considered warranted.

Volusia Sheriff's Office Standards and Directives -

26.2.41 Negligence Associated with Safety of Persons or Property - Employees shall be attentive to job duties and shall not violate official Directives, orders, supervisory instructions, or knowingly refrain and cause another to refrain from the performance of

A handwritten signature in blue ink, appearing to be "J. Patsch".

lawful duties required for the safety of persons or property. *(Violation subject up to a demotion.)*

26.2.94 Use and Handling of Weapons - Employees shall use or handle weapons in a careful, safe and prudent manner on and off duty. Weapons shall be used in accordance with the law and VSO Directives. *(Violation subject up to a 5 day suspension.)*

26.2.133 Repeated failure to maintain necessary skills, knowledge and abilities after counseling and instruction shall result in increasing the severity of disciplinary actions. *(Violation subject up to dismissal.)*

26.2.137 Subsequent violations and recurrent failure to maintain and demonstrate knowledge of Directives, rules & regulations or standard operating procedures may be cause for dismissal.

To Wit:

On September, 15, 2020, you responded to the Volusia County Branch Jail in reference to an occupied stolen vehicle call. Upon your arrival, you entered the rear driver's seat of a Daytona Beach Police Department's unmarked patrol vehicle intending to make a tactical approach with other law enforcement officers to apprehend the occupant(s) of the stolen vehicle.

Upon approaching the stolen vehicle, the vehicle began to back out of its parking space. The Daytona Beach Police officer you were with tactically parked in front of the stolen vehicle, making positive contact with the bumper of the stolen vehicle with his patrol vehicle.

At this time, you attempted to exit the rear seat to assist with the apprehension and affect a felony stop; however, the child-safety locks were activated and you were unable to disembark the vehicle. During your attempt to exit the vehicle, you accidentally discharged a single round into the rear of the driver's seat in front of you with your agency issued firearm.

While no injuries were reported, you did not handle your firearm in a careful, safe and prudent manner, and placed several persons in the immediate vicinity in danger of serious bodily injury or death. Additionally, your accidental discharge caused property damage to the Daytona Beach Police Department's patrol vehicle's seat.

You have previously been the subject of the following disciplinary action:

08/02/2017	26.2.98	Careless Handling of Equipment and vehicle	Sustained
01/18/2019	26.2.15	Failure to Respond to a Subpoena	Sustained
09/14/2018	26.2.33	Inattention to Duties, Loafing, Sleeping	Sustained
02/12/2019	26.2.15	Failure to Respond to a Subpoena	Sustained
	26.2.133	Repeated Failure to Maintain Necessary Skills, Knowledge and Abilities	
09/23/2019	26.2.34	Failure to Follow Directive or Order	Sustained
	26.2.123	Compliance with a Lawful Order	



	26.2.156	Use of Equipment: Body Worn Camera	
	44.2.2	Taking a Child into Custody	
	44.2.25	Juvenile Traffic Violations	
	44.2.27	Juvenile Traffic Violations	
01/02/2020	26.2.134	Knowledge of Official Directives	Sustained
	26.2.135	Frequent or Repeated Violation of Policy and Procedure	
	26.2.156	Use of Equipment: Body Worn Camera	
	86-453(2)	Disregard or Frequent Violations of County Ordinances, Departmental Policies and Regulations	
	86-453(12)	Incompetent or Unsatisfactory Performance of Duties	
	86-453(22)	Any Other Conduct of Action of Such Seriousness that Discipline Action is Considered Warranted	
09/09/2020	26.2.132	Failure to Maintain Required Skills	Sustained
	86-453(14)	Any Conduct On or Off Duty that Reflects Unfavorably on the County as an Employer	

In determining your discipline, I have considered your prior disciplinary history, performance, length of service with VSO, and seriousness of the circumstances of the most recent violations.

Deputy Patsch, you were served with an "Intent to Suspend" letter on November 4, 2020, advising you of my intent to suspend you from duty without pay for eighty (80) work hours. You appeared before me on November 16, 2020, and had the opportunity to offer any mitigating circumstances that should be considered prior to my determination of this final discipline. After earnest consideration, my final decision is to suspend you from duty **without pay for sixteen (16) work hours**. In lieu of serving the suspension without pay for its entirety, you may elect to use your personal leave time for a one-time maximum allotment of sixty (60) hours; if you so elect, your remaining balance of the one-time allotment would be forty-four (44) hours. The dates and times of your suspension is to be determined by your Division Chief.

During the period of suspension, you are instructed not act in any capacity as an employee of the Sheriff's Office.

You may not voluntarily work any additional hours (i.e., scheduled days off) during the pay period in which the suspension is taken.

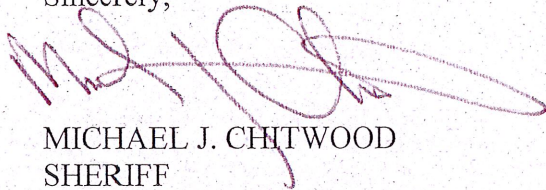
If there are any concerns or questions troubling you that I am not aware of, please advise me so that I will have the opportunity to assist you in correcting this problem.

Pursuant to the Volusia County Merit System Rules, Section 86-455, the Volusia County Legal Department and Human Resources Director have reviewed and concur with this intended action.

Any subsequent activity of a similar nature will result in more severe administrative action, up to and including dismissal. Take due care and govern yourself accordingly. Be especially aware of **Progressive Discipline 26.1.1**

If you wish to appeal my decision in this matter, you may do so by filing a written request through County Human Resources within (10) days of receipt of this notification.

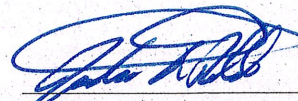
Sincerely,



MICHAEL J. CHITWOOD
SHERIFF

cc: Human Resources
County Legal
Internal Affairs

MC/ds 040L0287.20




This letter was read and received by:

Deputy Joshua Patsch, #8544

Date: 11/18/2020

Time: 1317 hrs

Served by:



or Sullivan 6842