

**VOLUSIA COUNTY SHERIFF'S OFFICE
INTERNAL AFFAIRS**

REPORT OF INVESTIGATION

REPORT NUMBER: FN2017-0009

PERIOD COVERED: December 10, 2017
DATE REPORTED: December 21, 2017
SUBJECT(S) NAME: Deputy Kevin Moss #2445
INVESTIGATING OFFICERS: Detective Tara Burke #1465

BASIS FOR INVESTIGATION:

On December 21, 2017, Sheriff's Office command staff received a response to resistance report drafted by Lieutenant Corey Piser; the subject of the inquiry was Deputy Kevin Moss. On December 10, 2017, Deputy Moss and his K-9 partner Mako responded to 605 Miles Street, Deland, FL, to assist with the apprehension of a suspect with a felony warrant, VCSO case # 17-30361. During the incident, K-9 Mako apprehended the female suspect, Trina Hicks, who was pregnant at the time. According to Lieutenant Piser's report, Deputy Moss allegedly violated Volusia County Sheriff's Office **Directive 41.9** in deploying K-9 units, "*only after careful consideration and in using great caution*" and **Directive 41.9.6**, "*K-9 handlers are reminded that only the degree of force necessary to apprehend or secure a subject may be used.*"

OFFENSES:

This investigation is relevant to an alleged violation of Department Standards Directives:

26.2.134 Knowledge of Official Directives- Department personnel are required to possess a sound working knowledge of policies and procedures established by the Standards Directives (*Violation subject up to a 5-day suspension*)

RE: 41.9 K-9 Units

INVESTIGATIVE SUMMARY:

On December 21, 2017, Chief Deputy John Creamer assigned the above incident to the Internal Affairs Unit. This report details the internal affairs investigation conducted by Detective Tara Burke.

On December 18, 2017, Sheriff's Office command staff received a response to resistance report drafted by Lieutenant Corey Piser; the subject of the inquiry was Deputy Kevin Moss. On December 10, 2017, Deputy Moss and his K-9 partner Mako responded to 605 Miles Street, Deland, FL, to assist with the apprehension of a suspect with a felony warrant, VCSO case # 17-30361. During the incident, K-9 Mako apprehended the female suspect, Trina Hicks, who was pregnant at the time. According to Lieutenant Piser's report, Deputy Moss allegedly violated Volusia County Sheriff's Office **Directive 41.9** in deploying K-9 units, "*only after careful consideration and in using great caution*" and **Directive 41.9.6**, "*K-9 handlers are reminded that only the degree of force necessary to apprehend or secure a subject may be used.*"

Copies of the incident reports and body worn camera (BWC) videos were reviewed. *(See Tab-E for Digital Media)*

On January 29, 2018, Deputy Moss was served with a Notification of Internal Investigation along with a copy of his Officer Bill of Rights. *(See Tab- B for Official Correspondence)*

Deputy Michael Webb

On February 8, 2018, Detective Burke and Detective Glenn Bennett conducted a sworn recorded interview with Deputy Michael Webb at the Stephen Saboda Training Center, Daytona Beach, FL. The following is a summary of that interview:

Deputy Webb has been employed with the Volusia County Sheriff's Office for approximately twenty-three years. Deputy Webb is currently assigned to the K-9 Unit; he has been in this unit for approximately nineteen years. Deputy Webb has been a K-9 instructor since 2006 and an FDLE evaluator for approximately ten years.

Deputy Webb explained the process of being trained as a K-9 handler. All K-9 handlers are required to complete the initial 480-hour course with their dog, and recertification is required annually. Deputy Webb explained that the FDLE curriculum is used for their training.

Deputy Webb explained the guidelines for tracking suspects who have felony or misdemeanor charges. Misdemeanors are tracked, the areas are searched “*on lead*,” and felony subjects can be searched on or off lead. Deputy Webb advised they do not track “*off lead*” unless it is an area search or building search, but it depends on the size of the location and if the area is contained.

Deputy Webb confirmed there is no K-9 training guidelines pertaining to the tracking of a pregnant female suspect; this is permitted. Deputy Webb advised there is nothing in policy that states they cannot use K-9 to search a home or building for a pregnant female, and there is nothing in policy stating the K-9 cannot engage a pregnant female suspect.

Deputy Webb explained that announcements are required when they enter a structure with K-9; he advised they give a minimum of two warnings and give a consequence with each of these announcements. Deputy Webb advised anytime you hear a deputy give a K-9 warning it should be followed by “*you will be bit.*” There is case law stating that consequences must be given with the warning.

Prior to this interview, Deputy Webb watched the BWC video of the incident involving Deputy Moss and his K-9 partner Mako from the December 10, 2017. Deputy Webb confirmed Deputy Moss made the correct warnings and gave consequences along with those announcements. Deputy Webb confirmed there is annual recertification and Deputy Moss is qualified and has all his certifications. Deputy Webb was asked; “*As the instructor, the K-9 instructor handler, do you feel that Deputy Moss followed procedure when searching for the suspect?*” in accordance with his training. Deputy Webb stated, “*According to his training, yes.*” (See Tab-C for Official Transcript)

Internal Affairs Detectives reviewed the BWC video of the incident involving Deputy Moss and K-9 Mako from December 10, 2017. In the video it is clear that Deputy Moss made his warnings

followed by consequences three times prior to entering the residence, furthermore he made another announcement while searching the house. At least two other warnings are heard on the BWC video from the deputies on scene, requesting the suspect to come out. Deputy Moss was inside the bedroom where the suspect was hiding in the closet for approximately 40 seconds while giving K-9 Mako commands and searching. Once K-9 Mako is inside the closet, "ok" is then heard several times, the suspect was inside the closet covered up with items, she was not visible. Deputy Moss states, "Where's she at? Let me see your hands now!" Deputy Moss says again, "Where you at?" as K-9 Mako is inside the closet. The female suspect yells out that she is pregnant several times, Deputy Moss responds that he knows she's pregnant and he is trying to get her out, K-9 Mako is asked to "bring" and the suspect is pulled from the closet. Once K-9 Mako released the suspect, Deputy Moss still had to yell at her to show her hands as deputies arrived in the bedroom to assist and arrest her.

According to the incident reports, the suspect had small holes in her thigh; she was treated at the scene and released by rescue. While paperwork was being completed at the district two office the suspect said she was a high-risk pregnancy, she was transported to Deland Hospital for precautionary measures. Trina Hicks, the defendant, had an active felony warrant; she also has an extensive criminal history including other felony and misdemeanor charges. She was arrested on December 10, 2017 for resisting an officer without violence and an open active felony warrant.

EXECUTIVE SUMMARY:

On December 21, 2017, Detective Burke received a response to resistance report drafted by Lieutenant Corey Piser; the subject of the inquiry was Deputy Kevin Moss.

According to the response to resistance report, on December 10, 2017, Deputy Moss and his K-9 partner Mako responded to 605 Miles Street, Deland, FL, to assist with the apprehension of a suspect with a felony warrant, VCSO case # 17-30361. During the incident, K-9 Mako apprehended the female suspect, Trina Hicks, who was pregnant at the time. According to Lieutenant Piser's report, Deputy Moss allegedly violated Volusia County Sheriff's Office **Directive 41.9** in deploying K-9 units, "*only after careful consideration and in using great caution*" and **Directive 41.9.6**, "*K-9 handlers are reminded that only the degree of force necessary to apprehend or secure a subject may be used.*"

Deputy Michael Webb has been a K-9 instructor since 2006 and an FDLE evaluator for approximately ten years. Deputy Webb watched the BWC video of the incident involving Deputy Moss and his K-9 partner Mako from the December 10, 2017. During his interview with Internal Affairs Detectives, Deputy Webb confirmed that Deputy Moss made the correct warnings and gave consequences along with those announcements. Deputy Webb confirmed there is annual recertification and Deputy Moss is qualified and has all his certifications. Deputy Webb confirmed there is no K-9 training guidelines pertaining to the tracking and apprehension of a pregnant female suspect; this is permitted. Deputy Webb was asked; *“As the instructor, the K-9 instructor handler, do you feel that Deputy Moss followed procedure when searching for the suspect?”* in accordance with his training. Deputy Webb stated, *“According to his training, yes.”*

Conclusion:

On February 9, 2018, this investigation was presented to the Sheriff. After review, the Sheriff determined the violation of the below listed department police for Deputy Moss to be:

26.2.134 Knowledge of Official Directives

RE: 41.9 K-9 Units

Unfounded

Exhibits:

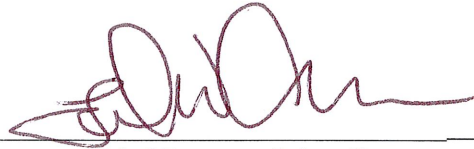
- A. Report of Investigation
- B. Official Correspondence
- C. Official Transcripts of Deputy Michael Webb
- D. Miscellaneous Documents
- E. Digital Media

WITNESS:

Deputy Michael Webb
Volusia County Sheriff's Office
386-736-5961

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:  DATE: 02/19/18
Detective Tara Burke
Internal Affairs Detective

APPROVED BY:  DATE: 2/20/18
Chief Deputy John Creamer
SHERIFF MICHAEL J. CHITWOOD
VOLUSIA COUNTY FLORIDA