



Redacted F.S. 119.071(4)(c)

2013-A-121



Brevard County Sheriff's Office

EMPLOYEE LETTER OF REPRIMAND

This document shall serve as a "Letter of Reprimand" for a policy/procedure violation. You are cautioned that any further misconduct of this type may result in more severe disciplinary sanctions. It is your responsibility to initiate the necessary corrective action to ensure such violation never occurs.

Employee S ID Number Date 10-30-2013

Precinct / Unit CIS/GOTF Position / Title Agent 1

Supervisor Sergeant C Date of Incident 10-23-2013

Reason for Written Reprimand:

Violation of 400.00 General Professional Responsibilities
Violation of 400.22 Conduct Toward the Public

Violation of 400.04 Substandard Performance

Signatures MUST be in order

MAS [redacted] 10/31/13
(1) COMMANDER/MANAGER/DIRECTOR SIGNATURE; ID #; DATE

MAS [redacted] 10/31/13
COMMANDER/MANAGER/DIRECTOR NAME PRINTED

(2) CHIEF OFFICER SIGNATURE / DATE

** Notations may be made at any level and made an attachment to the form **

I have read this report and acknowledge the receipt of this Letter of Reprimand.

<u>LT. [redacted]</u>
(3) SUPERVISOR SERVING REPRIMAND SIGNATURE; ID #
<u>LT. [redacted] SA [redacted]</u>
SUPERVISOR NAME PRINTED
DATE AND TIME OF SERVICE <u>10/31/13 @ 1645</u>

Agent [redacted] SA [redacted]
(4) EMPLOYEE SIGNATURE; ID NUMBER; DATE

Entered into PMP / Employee Evaluation
DATE

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BREVARD COUNTY SHERIFF'S OFFICE

Titusville, Florida

Memorandum

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Date: October 29, 2013

To: Major [REDACTED] W [REDACTED]

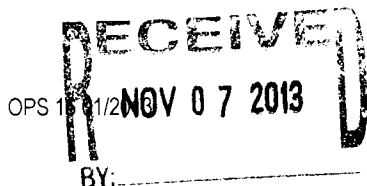
From: Sergeant [REDACTED] C [REDACTED]

Re: Citizen Contact

On October 23, 2013, at approximately 3:40 PM, FTO Brett Cook initiated a traffic stop on N. Burnett Road, in Cocoa. The driver of the vehicle pulled to the left (west) side of the roadway at 3600 West King Street, Cocoa, in front of the Community Service Council. As FTO Cook was conducting the traffic stop, he observed a suspicious vehicle and person behind him. He approached the individual who advised that he was recording the traffic stop. FTO Cook then requested a backup unit respond so he could continue to conduct his roadside investigation without having to maintain awareness and address the distraction of the suspicious individual. Agents [REDACTED] S [REDACTED] and [REDACTED] E [REDACTED] were in the West Cocoa area and responded to the scene.

When Agents S [REDACTED] and E [REDACTED] arrived on scene, they observed FTO Cook conducting his traffic investigation. They additionally observed a white male later identified as Jeffrey Gray standing approximately thirty feet behind FTO Cook. Mr. Gray was observed holding a yellow cellular telephone and pointing it in the direction of FTO Cook. Both Agents S [REDACTED] and E [REDACTED] walked over to Mr. Gray and asked why he was there. Mr. Gray responded by saying "He did not need to answer any questions." Agent S [REDACTED] observed another instrument that he believed to be a cellular telephone attached to the top center of Mr. Gray's t-shirt. This was later determined to be an Apple iPod. Agent S [REDACTED] again tried to speak with Mr. Gray and determine his name. Mr. Gray responded by stating "I don't have to tell you my name" and handed a yellow card to Agent S [REDACTED]. Mr. Gray stated the card was his "invocation of right's" and that he "has the right to tape law enforcement".

Agent S [REDACTED] then went and spoke with Ms. Cindy Flachmeier who is the director of the Community Service Council, which is the business Mr. Gray had parked his vehicle. Mr. Gray's vehicle was parked in the parking lot and occupied by an adult female and young child. Mr. Gray was also standing on the property while filming FTO Cook as he performed his duties. After speaking with Ms. Flachmeier, Agent S [REDACTED] advised Mr. Gray



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that the business did not want them on the property and that his vehicle would also have to leave the premises.

Agent S█ states within his report that he advised Mr. Gray that he had to leave the property and that he was being warned for trespassing. Mr. Gray then walked away from Agent S█ headed towards the street in front of where FTO Cook was conducting his traffic stop. Agent Stoll then advised Mr. Gray that he had to remove his vehicle from the property. Mr. G█ turned towards him and stated "My wife will move it." Agent S█ then advised Mr. Gray that he could not stand in the roadway or on the county right-of-way next to where the traffic stop was being conducted. According to Agent S█ Mr. Gray then walked in front of the traffic stop, at which time Agent S█ advised him he was under arrest (13-333734). Agent S█ placed handcuffs on Mr. Gray and walked him back to his vehicle. Mr. Gray was subsequently transported to the County Jail relative to two counts of Obstruction/Resisting an officer without violence and one count of Trespass after Warning.

FTO Cook's marked patrol vehicle is equipped with in-car video. During this incident the video was operating, but there was no audio captured. During the traffic stop you can observe FTO Cook continuing look in the directions Mr. Gray maneuvered to film. Mr. Gray cannot be seen on the in-car video until he walks from the business parking lot across the grass and onto the roadway approximately twenty five to thirty feet in front of the traffic stop.

Mr. Gray advised that he was a member of PINAC. PINAC refers to "Photography Is Not a Crime." While researching the associated website, I located a portion of the traffic stop that was captured by a recording system mounted from within Mr. Gray's vehicle. During the video, you can hear the voice of a female occupant asking what was going on. Agent E█ then explained the situation and that her husband was under arrest. After a pause, you hear Agent S█ voice state, "Here is your husband's property." You then hear her ask where the jail is located. Agent S█ then responds by saying "I'm not gonna tell you that. You have not cooperated with me so I'm not going to help you."

Agent S█ completed his case report detailing his actions and the property he had seized. While reviewing the completed case package, it was observed that Agent S█ made no effort to conduct or collect witness statements or affidavits. I also observed the Property receipt for the seized evidence was lacking specific and required information. On the property receipt, Agent S█ listed one item and under the quantity section he listed five items. As I looked at the description of the items, I could only identify four items. Agent S█ listed the following: One yellow cellular phone, one black IPOD, one black IPOD case, and the yellow right invocation card. All the items were listed on the same line and no serial numbers or identifying marks were provided. It was later determined that the fifth item was "the Bluetooth he was wearing in his ear." Agent S█ then responded to Evidence to update his property receipt to accurately reflect the items that seized.

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Once Mr. Gray was released from the Brevard County Jail, a new video was posted on the website alleging that Mr. Gray's telephone was "knocked" out of his hands and damaged at the time of his arrest. Agent S■■■■ believes the telephone was broken prior to the incident and that he did not deliberately knock the telephone out of his hand, but that it is possible that it could have been damaged when it fell to the ground.

After completing a supervisory review of the case and the documents generated, I recommend sustained violations of: **G.O 400.00 General Professional Responsibilities, G.O. 400.04 Substandard Performance and G.O. 400.22 Conduct Toward the Public** by Agent S■■■■. Agent S■■■■ failed to conduct an investigation to include gathering statements and affidavits or complete required documentation to support his enforcement actions. Agent S■■■■ property receipt was lacking vital information pertaining to the serial numbers or identifying marks of the property seized. Additionally, Agent S■■■■ did not document how or when the telephone was damaged. During the encounter with the female occupant of the vehicle, Agent S■■■■ refused to provide information requested by a citizen and his interaction was rude and unprofessional.

As a corrective measure, it is recommended that Agent S■■■■ receive a Letter of Reprimand for the noted sustained violations. In conclusion, it appears that the contact initiated by Mr. Gray was intended to be disruptive and incite an enforcement response; however, Agent Brian S■■■■ is an experienced Deputy Sheriff who had sufficient support to respond to the contact in a safe and professional manner. Unfortunately, Agent S■■■■ made the decision to perform in a substandard manner.

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Concur.
JW #120
10/31/13

Wayne Ivey, Sheriff