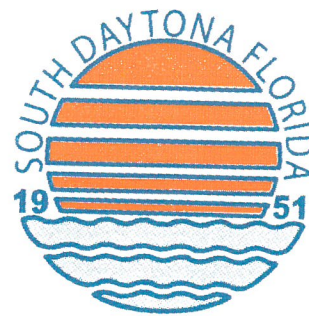


# City of South Daytona

Office of the City Manager / Department of Police

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## MEMORANDUM

To: Joseph W. Yarbrough, City Manager

From: Ronald R. Wright, Chief of Police *R.R.W.*

Re: Termination Recommendation

Date: September 26, 2017

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On August 9, 2017 I received the attached Internal Affairs (IA) investigation of Lieutenant Daniel Dietrich from the IA Investigator, Lieutenant Mark Cheatham.

Per the City Attorney, on August 11, 2017, a copy of the internal affairs investigation, # 17-01-DJD, was sent to the Criminal Justice Standards and Training Commission following a requirement from Florida State Statute 112.534. A letter from me explaining the events of the complaint were included. On that same date a copy of the internal affairs investigation was delivered to Lieutenant Dietrich, along with a letter from me explaining that I considered the investigation into this matter incomplete until the Commission finalized its review, therefore I was not in a position to make a decision on any discipline at the time.

On August 14, 2017, the police department was advised by FDLE Field Representative Kathy Myers that CJSTC Form #78 must be submitted with all paperwork to CJSTC pending any allegation of officer misconduct, and that form included the decision of Agency Disciplinary Action on the officer from the submitting agency. Therefore, the final disposition of each allegation listed in the Internal Affairs investigation report are required to be classified.

Attached hereto is the complete file regarding this incident, including both the recording and transcript of the IA conducted by Lieutenant Dietrich of Officer Pedri, the findings of the Compliance Review Panel and the IA conducted by Lieutenant Mark Cheatham of Lieutenant Dietrich. In summary, Lieutenant Dietrich was conducting an IA interview of Officer Pedri, who was being represented by Attorney Ames. When Lieutenant Dietrich commenced the interview, Attorney Ames attempted to make statements, but was told by Lieutenant Dietrich he could not speak. Attorney Ames continued making statements resulting in Lieutenant Dietrich having Attorney Ames removed from the interview room by another City police officer (Sergeant

Gregory French) and under threat by Lieutenant Dietrich of being placed in handcuffs and trespassed. However, Lieutenant Dietrich directed Officer Pedri to stay in the interview room even though his attorney had been removed. Several times Officer Pedri asked to have representation during the interview, if not an attorney at least another police officer, but Lieutenant Dietrich refused, stating, "that boat has sailed." Lieutenant Dietrich instructed Officer Pedri that if he did not answer the questions he would be subject to discipline. However before Lieutenant Dietrich could start the interview, I had called Lieutenant Dietrich and told him to stop the interview as I had been contacted and advised as to the situation.

On September 20, 2017, I conducted a Pre-Disciplinary Hearing for the purpose of affording Lieutenant Dietrich and his attorney to provide any additional evidence or argument as to why the preliminary determination should be changed or was unwarranted. Lieutenant Dietrich indicated that he was not feeling well on the day of the interview, he was on medication, this was only his 2<sup>nd</sup> IA he ever conducted and that he did not think this issue warranted termination. Lieutenant Dietrich's attorney provided information that the law is not clear what rights the attorney has while present during the interview, and that Officer Pedri's attorney may have gone beyond such authority. Lieutenant Dietrich's attorney also argued that this situation did not warrant termination under the facts and circumstances. Further, they provided statements from some City officers, current and past, supporting Lieutenant Dietrich. I have taken into consideration the information provided in reaching my final recommendation to you.

The possible violations committed by Lieutenant Dietrich during the time of this incident were identified in the Internal Affairs report and are listed below by certain Policy Directives of the South Daytona Police Department. They are numbered accordingly.

**107.25** *"Members shall be tactful in the performance of their duties, i.e. control tempers, exercise utmost patience and discretion, and shall refrain from engaging in argumentative discussion even in the face of extreme provocation."*

My final disposition of Directive **107.25** is that of **Sustained**.

During the IA, Lieutenant Dietrich not only refused to answer questions being raised by the attorney representing Officer Pedri, but he had the attorney removed from the interview room under threat of handcuffs and trespass. Furthermore, he attempted to continue the interview of Officer Pedri without representation, despite repeated requests for representation by Officer Pedri. Lastly, he threatened Officer Pedri with discipline if he did not answer the questions. It is obvious to me from listening to the tape that Lieutenant Dietrich became agitated while conducting the interview, which led to very poor exercise of judgment and discretion as Lieutenant Dietrich's conduct violated many laws as discussed below.

**208.67** *"It shall be the policy of this Department to follow the guidelines set forth in the Law Enforcement Bill of Rights whenever a law enforcement officer is under investigation and subject to interrogation by a member of this Agency."*

My final disposition of Directive **208.67** is that of **Sustained**.

The Law Enforcement Officers' Bill of Rights provides: "At the request of any law enforcement officer or correctional officer under investigation, he or she has the right to be represented by counsel or any other representative of his or her choice, who shall be present at all times during the interrogation whenever the interrogation relates to the officer's continued fitness for law enforcement or correctional service." The law clearly provides that an officer under interrogation has the right to have representation present during questioning, even if Lieutenant Dietrich was uncertain how to deal with Officer Pedri's attorney (who was raising questions during the interview) opting to remove the attorney from the interview and to try to continue with the interview without any representation despite repeated requests by Officer Pedri for such representations, was a clear violation of the law. Then to threaten Officer Pedri with discipline if he refused to answer question was another clear violation of the law. The Law Enforcement Officers' Bill of Rights provides: "The law enforcement officer or correctional officer under interrogation may not be subjected to offensive language or be threatened with transfer, dismissal, or disciplinary action." Therefore Lieutenant Dietrich violated the Law Enforcement Officers' Bill of Rights by first removing Officer Pedri's attorney from the interview, then refusing Officer Pedri's request for representation and trying to proceed with the interview without Officer Pedri having any representation present, and finally, violated another provision of the law by threatening Officer Pedri with discipline if he did not answer the questions.

**208.74** *"The law enforcement officer under interrogation shall not be subjected to offensive language or be threatened with transfer, dismissal, or disciplinary action. No promise or reward shall be made as inducement to answer any questions."*

My final disposition of Directive **208.74** is that of **Sustained**.

Lieutenant Dietrich gave a direct order to Sergeant French to have Attorney Ames removed from the premises. This included the threat of warning to Attorney Ames that he may be trespassed or placed in handcuffs. Lieutenant Dietrich directed Officer Pedri to answer questions without counsel, and threatened him with disciplinary action if he refused.

**208.79** *"Any law enforcement officer under investigation, at their request, shall have the right to be represented by counsel or any other representative of their choice, who shall be present at all times during such interrogation whenever the interrogation relates to the officer's continued fitness for law enforcement service."*

My final disposition of Directive **208.79** is that of **Sustained**.

Once Officer Pedri's legal representation was removed from the office, Officer Pedri and Lieutenant Dietrich argued over the lack of representation. Officer Pedri finally asked Lieutenant Dietrich if anyone could come in and be a representative for him or at least act as an independent witness, however Lieutenant Dietrich refused. Lieutenant Dietrich admitted that he would have continued with the interview of Officer Pedri, but he said, "Just then the Chief called and ended the interview, which is on the recording."

I concur with the summary of the internal affairs investigation provided by Lieutenant Cheatham and find that Lieutenant Dietrich intentionally violated the four (4) Department Directives listed above. Lieutenant Dietrich clearly lost his temper by threatening to place Attorney Ames in handcuffs, he did not follow the guidelines specified in the Law Enforcement Officers' Bill of Rights by having Attorney Ames (Officer Pedri's legal representation) removed, he threatened Officer Pedri with disciplinary action, and he refused to allow Officer Pedri any opportunity of legal representation or even an independent witness.

I find that Lieutenant Dietrich was unable to control his actions, which is completely unacceptable for a Lieutenant and member of the Command Staff. A member of Command Staff has certain responsibilities, including the need to safeguard the Law Enforcement Officers' Bill of Rights.

The actions of Lieutenant Dietrich has diminished the Department's ability to maintain our police officers' respect and trust in providing competent internal investigations. The Department's professional reputation is incumbent upon its Command Staff member's integrity, and Lieutenant Dietrich's activity clearly calls into question the soundness of his decision making skills, judgement, credibility and fitness for public employment.

Subsequently, due to his misconduct I recommend that Lieutenant Dietrich receives termination from employment.