



Department of Public Protection

TO: George Recktenwald, Director
Department of Public Protection

FROM: David Vanis, Captain
Department of Public Protection
Internal Affairs Unit

DATE: August 1, 2013

SUBJECT: Case # IA-2013-06-318, Captain Michael Snipes, Volusia County Division of
Beach Safety

References:

1. Memo DPP13-074 from Public Protection Director Recktenwald ordering an Internal Affairs investigation (Dated July 17, 2013).
2. Memo from Director Swanson addressed to Director Recktenwald requesting and Internal Investigation (Dated July 17, 2013).
3. Employee notices
4. Screen shots from the reporting person's cell phone showing the entire "Text thread."
5. Picture-Paula Dean with Pie (with caption).
6. Picture- Cartoon depicting black male holding a drink and "skittles" (with caption).
7. Picture- "Shrek" cartoon character (with caption).
8. Picture- Paula Dean jury.
9. Picture- white male and George Zimmerman with darker than normal complexion.
10. Captain Snipes' "facebook" page (Dated July 16, 2013).
11. CAD histories for Captain Snipes for July 14, 2013 and July 15, 2013
12. Captain Snipes KRONOS timesheet for pay period July 6-July 19, 2013.
13. Timeline showing pictures along with text date and times.
14. Beach Safety itemized cell phone bills for the month of June 2013.
15. Captain Snipes "facebook" friends list (Dated July 16, 2013).
16. Captain Snipes HR19 (signed January 12, 2013).
17. Officer John Texter witness interview transcript (dated July 19, 2013).
18. Pictures of the text thread from Officer Texter's personal cell phone (Taken July 19, 2013).
19. Captain Michael Berard witness interview transcript (Dated July 22, 2013).
20. Pictures of the text thread from Captain Berard's personal cell phone (Taken July 22, 2013).
21. Facsimile correspondence from Harr Law Firm (Dated July 23, 2013).
22. Officer Russell St. John witness interview (Dated July 24, 2013).
23. Pictures from Officer St. John's cell phone (Taken July 24, 2013).
24. Captain Michael Snipes subject interview transcript (Dated July 29, 2013).

Complaint:

On Tuesday July 16, 2013 Beach Safety Director Swanson received information that Captain Snipes had sent derogatory racial text and picture messages to several individuals including former and current Beach Safety employees. The person giving this information to Director Swanson wished to remain anonymous.. Director Swanson was unable to retrieve the messages at the time of the meeting. Director Swanson contacted me and requested that I contact the reporting person to gather information.

Information:

Later that morning I made contact with the reporting person. I was provided with screen shots and the individual pictures that were present on the "text thread." The thread was originally started by Captain Snipes on July 14, 2013 at 2031 hours with the picture listed as item 5. The picture was sent to current employees Captain Michael Berard, Officer John Texter, and Officer Russell St. John. The picture was also sent to four former employees and three other phone numbers not associated with Volusia County Beach Safety employees.

After the initial message, three other pictures (Items 6, 7, and 8) were sent by unknown parties (not Beach Safety employees) in the thread. Snipes replied "LOL nice!" after item 8 was sent at 1628 hours on July 15, 2013. At 1651 hours on July 15, 2013, Snipes sent the picture listed as item 9. This was the end of the text thread as of the time of viewing. None of the other current, or former, Beach Safety Personnel ever replied to, nor submitted pictures to the text thread.

The reporting person also provided me with a facebook posting (item 10) Captain Snipes had posted on July 14, 2013. The posting read "Another thug gone! Pull up your pants and act respectful. Bye bye thug rip!" This appeared to be a response to the State of Florida vs. George Zimmerman second degree murder trial verdict.

I submitted the pictures and screen shots to Director Swanson. Director Swanson determined the images sent by Captain Snipes were profane and inappropriate for one of his employees to be transmitting. Director Swanson requested that I determine if Captain Snipes was on-duty at the time the messages were sent and to prepare a timeline for his records.

After review Snipes' CAD histories (Item 11) for July 14th and 15th and Kronos timecard for pay period July 6-July 19, 2013 (Item 12), I determined that he was on duty for all text messages and pictures that he submitted to the text thread. I was unable to determine if he was on duty for the facebook posting since the post is not time stamped, only dated.

I prepared a timeline (item 13) and submitted it to Director Swanson on July 16, 2013.

On July 17, 2013 I was ordered by Director Reckenwald to conduct an Internal Investigation into Captain Snipes' text/picture messages and social media posting.

At approximately 1705 hours on July 17, 2013, I served Captain Snipes Notice of Internal Investigation (Including Florida law enforcement officers' and corrections' rights and Garrity Advisement) and Notice of Administrative leave. Captain Snipes signed and acknowledged both documents. Snipes was notified that his investigative interview was scheduled for Thursday July 25, 2013 at 1200 hours.

I reviewed Beach Safety's Verizon phone bill for the billing period from May 29, 2013- July 1, 2013. The bill shows an itemized list of calls in and out of the cell phones issued to Beach Safety employees. Snipes is listed as one of the employees issued a cell phone, however, no incoming or outgoing calls are listed on his phone for the time period. Snipes' personal cell phone is listed as an incoming or outgoing call thirty-four times to Beach Safety issued phones. This indicated to me that Snipes uses his personal phone for county business.

I scheduled meetings with Captain Berard, Officer Texter, and Officer St. John to interview them and determine their level of involvement in sending or receiving the pictures in question.

Officer John Texter:

On July 19, 2013 I conducted a sworn witness interview with Officer John Texter (VCBS) at Beach Safety Headquarters. Texter confirmed that he had received the group message initiated by Snipes on July 14th. Texter stated that he was off duty at the time and never responded to any of the pictures sent in the thread. Texter added that he did not report the text to a supervisor. He did not forward the pictures to anyone. Texter allowed me to take pictures of the group message as it appeared on his phone. These pictures were added to the case file under tab 18.

Captain Michael Berard:

On July 22, 2013 I conducted a sworn witness interview with Captain Michael Berard (VCBS) at Beach Safety Headquarters. Berard confirmed that he had received the group message initiated by Snipes on July 14th. Captain Berard is issued a cell phone by Beach Safety, however this text thread was received on his personal phone. Captain Berard stated that he had received funny pictures in the past from Captain Snipes via text/picture message. Captain Berard felt that the picture(s) sent by Snipes were inappropriate in light of recent events but did not report the pictures to anyone in his chain of command. Berard allowed me to take pictures of the group message as it appeared on his phone. These pictures were added to the case file under tab 20.

Information:

On July 22, 2013 at 1018 hours, I was contacted by Counselor Jason Harr, Harr Law Firm, who advised me that he would be representing Captain Snipes. Mr. Harr requested that I postpone Snipes' interview scheduled on July 25, 2013 due to his unavailability. I contacted Snipes to confirm that he wished to postpone his interview. Snipes agreed and I advised him that I would need him to respond to Beach Safety Headquarters to sign a new interview notice by 1700 hours on this date. The new interview was rescheduled for Monday July 29, 2013 at 0900 hours at Public Protection Administration. At approximately 1630 hours, I had not been contacted by Captain Snipes in regards to the new interview notice. I contacted him again and he advised that his attorney told him not to meet with me. I informed Snipes that he was currently on administrative leave and had an obligation to be available for work related reasons while in this status. I told him failure to respond when requested would be viewed as an act of insubordination which is punishable by up to termination. I notified Director Swanson who contacted Captain Snipes and gave him a direct order to respond to the office. Captain Snipes eventually responded to the station at approximately 1655 hours and signed the interview notice while his attorney was on speaker phone. Mr. Harr followed this conversation with a facsimile transmission (Item 21).

Officer Russell St. John:

On July 24, 2013 I conducted a sworn witness interview with Officer Russell St. John (VCBS) at Beach Safety Headquarters. Officer St. John is a direct report to Captain Snipes but also states that he socializes with Snipes outside of the workplace. St. John confirmed that he had received the group message initiated by Snipes on July 14th. St. John frequently exchanges text messages with Captain Snipes both socially and professionally. St. John stated that it was his normal practice to delete group messages, as he had already done with this message, but he did recall the message due to media attention this case had received. St. John stated that he was not offended by the content of the text thread and did not report the pictures to anyone in his chain of command. St. John could not recall if he was on duty when he received the messages but did state that he had worked that day. St. John did state that he had exchanged text messages with Captain Snipes on July 17th and 18th. He told me that details of this case were not discussed between him and Snipes. I verified this by reviewing the content on his phone. I additionally verified that he had deleted the text thread. I took pictures of the phone to document both and added to the case file as item 23.

Captain Todd Snipes:

I conducted a sworn subject interview with Captain Snipes on July 29, 2013 at the Public Protection Conference Room, 125 West New York Avenue, Deland. Also in attendance were Snipes' Attorney, Jason Harr and Deputy County Attorney Nancye Jones. Mrs. Jones was attended at my request due to legal arguments brought up by Mr. Harr prior to the interview.

Captain Snipes admitted to initiating the text thread with the picture of Paula Dean (Item 5) while he was on duty working a special event at the Ocean Deck Restaurant. He also admitted to sending the picture depicting a dark skinned George Zimmerman and a teenaged white male (Item 9) but stated that he did not create either picture. The other pictures within the text thread (items 6, 7, and 8) were sent by friends of his that are not associated with Volusia County Government. Snipes conceded that while it was not his intent for these pictures to become public, members of the public could consider them offensive or racist. Snipes said that he sent the pictures to this group of people which included current and former Beach Safety personnel and other friends at random and for no specific reason.

Captain Snipes also admitted to posting "Another thug gone! Pull up your pants and act respectful. Bye bye thug rip!" on his facebook page (Item 10). Snipes said that this post was referring to Trayvon Martin. Snipes stated that this was not posted while on duty, which is verified by the comment posted as a response to this message at 1258 hours. Snipes did not come on duty till 1300 hours on July 14th, the date of his post. When asked who was able to view his facebook page, Snipes responded that only "friends" could view comments he had posted. I asked how many facebook friends Snipes had but he was unsure of the exact number. I told him that over 330 friends were listed on his page (at the time of my inquiry on July 17, 2013 Captain Snipes had 336 friends listed on his facebook page). Snipes replied "Probably." He was unsure of how many of his "friends" knew that he was employed by Volusia County but a review of his friends list (Item 15) indicates that many of his "friends" are current or former Beach Safety employees who should have knowledge of his employment. Snipes stated that this post was offensive and could be considered racist to members of the public.

Captain Snipes was aware of the County's Social Media Policy and signed HR19 on January 12, 2013 (Item 16). Captain Snipes told me that he would not send the pictures or the facebook post to a minority but does feel that the public can still trust him to be fair and impartial when interacting with minority groups as he has done his entire career. Snipes also added that since the beginning of this investigation, he has shut down his facebook page and is no longer an active user.

Conclusion:

The remaining recipients and participants in the text thread were not contacted nor interviewed due to the lack of evidentiary value that their testimony could provide.

Prior to coming into work on July 14, 2013 Captain Snipes posted on his private facebook page "Another thug gone! Pull up your pants and act respectful. Bye bye thug rip!" This post was visible to at least 336 other facebook users including private citizens, current Beach Safety employees, and former employees. Nowhere in this post did Captain Snipes indicate that "The postings on this site are my own and do not necessarily reflect the views of the county" or any verbiage similar to that phrase.

On July 14, 2013 at 2031 hours Captain Snipes started a group text sent to Captain Michael Berard, Officer John Texter, Officer Russell St. John, three former Beach Safety employees, and four other people not associated with the Beach Safety Division. He initiated the thread with a picture of Paula Dean holding a pie with a caption that reads "Ya'll niggas want some." This text was sent while Captain Snipes was on duty working a special event at the Ocean Deck Restaurant. Three other pictures were sent in reply to Snipes' original picture. None of these pictures were sent by current or former employees. The last picture sent in the group text was sent by Snipes on July 15th at 1651 hours. This picture depicts a dark complexioned George Zimmerman and a teenaged white male. Snipes was on duty as a shift supervisor when he sent this picture.

Captain Snipes admitted that the pictures sent via text and the comment he posted on facebook are offensive. Although Captain Snipes did not intend for his pictures and facebook post to be public, the facebook post was visible to at least 336 facebook users including several Beach Safety employees. Due to current events, such as the death of Trayvon Martin, racial issues are highly publicized. Snipes' post and the pictures he sent can be described as inflammatory. His position as a law enforcement officer, EMT, and lifeguard requires that he treat every person, regardless of race, equally.

Findings:

Based upon supporting documentation and sworn testimony the following allegations against Captain Michael Snipes are **sustained**:

HR Bulletin 19 – Social Media Policy 2013

Merit System Rules and Regulations:

Sec. 86-45. Conduct of employees.

(a) *Code of conduct.* Employees of the county government are employed to provide service to the citizenry of the county and the public in general and are expected to conduct themselves in a manner that will reflect credit on the county government, public officials, fellow employees and themselves. Employees must avoid any action which might result in or create the impression of using public office for private gain, giving preferential treatment to any person, or losing impartiality in conducting public business.

Sec. 86-453. Reasons for disciplinary action.

(8) Criminal, dishonest or other conduct which interferes with effective job performance or has an adverse effect on the efficiency of county service.

(13) Any conduct, on or off duty, that reflects unfavorably on the county as an employer.

Volusia County Beach Safety Policies and Procedures:

11.01: It shall be the policy of the Division that employees maintain command of temper, patience and discretion. They shall not engage in any conduct which constitutes neglect of duty or which is likely to adversely affect the discipline, good order or reputation of the Division, even though such conduct may not be specifically set forth in this chapter.

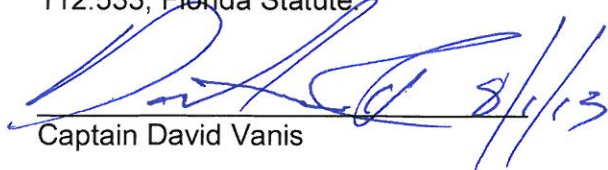
11.01.56: Derogatory Ethnic Remarks Employees shall not make derogatory remarks concerning race, sex, religion, age or national origin of any person.(CFA St. 2.08C) (*violation subject to dismissal.*)

11.01.69 Misrepresentation/Controversial Opinions – Employees shall not express opinions on religious, political, economic, or other questions of controversial nature while on duty and/or while representing the Division, without prior knowledge and approval of the Director. (*Violation subject up to a 1-day suspension.*)

Concluding Statement:

Unless otherwise directed, this investigation is considered closed, and is submitted for review and action as deemed appropriate. The original attachments of interviews and other documents pertaining to this investigation remain on file with the Internal Affairs Unit.

"I, the undersigned, 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 Statute."

 8/1/13
Captain David Vanis