



Department of Public Protection

Report of Incident

TO: George Recktenwald, Director
Department of Public Protection

FROM: David Vanis, Captain
Public Protection Administration
Internal Affairs

DATE: January 7, 2015

SUBJECT: IA2014-329, Eric Middlebrook, Firefighter

Witnesses:

Nicholas Castelli, Battalion Commander, VCFS
Jeremiah Greathouse, Lieutenant, VCFS

References:

1. Memo ordering internal investigation (Dated November 18, 2014).
2. Notice of Internal Investigation (Dated November 18, 2014).
3. Memo from Battalion Commander Nicholas Castelli to Division Chief Tim Martin (Dated November 7, 2014).
4. Memo from Lieutenant Jeremiah Greathouse to Division Chief Tim Martin (Dated November 7, 2014).
5. Supervisor Synopsis of Incident authored by Division Chief Tim Martin (Dated November 7, 2014).
6. Battalion Commander Nicholas Castelli witness interview transcript (Dated November 18, 2014).
7. Lieutenant Jeremiah Greathouse witness interview transcript (Dated November 19, 2014).
8. Firefighter Eric Middlebrook subject interview transcript (Dated November 21, 2014).
9. Memo from QA Coordinator Greg Payne to Cdr. Koczan titled "Personnel Interaction Incident" (Dated November 7, 2014).

Complaint:

Fire Services Director Smith was provided documentation relating to an altercation between Firefighter Eric Middlebrook and Battalion Commander Nicholas Castelli at Fire Station 11 on November 7, 2014. The memos, authored by BC Castelli, Division Chief Martin, and Lieutenant Greathouse detailed the incident.

At approximately 2100 hours on November 7, 2014, FF Middlebrook and Lt. Greathouse returned to Station 11 after an EMS call for service. FF Middlebrook was backing the fire apparatus into the south bay of the station while Lt. Greathouse was in the passenger seat of the apparatus. BC Castelli witness the apparatus backing without a “backer” as required by Fire Services Standard operating guidelines. As the apparatus came to a stop, BC Castelli looked at both occupants and asked “Who wants the reprimand?” FF Middlebrook exited the driver’s seat, made an obscene gesture, and immediately began shouting obscenities at BC Castelli in an aggressive manner. BC Castelli asked FF Middlebrook if he was being serious (in regards to the aggression). FF Middlebrook responded affirmatively. Both BC Castelli and Lt. Greathouse reported that BC Castelli advised FF Middlebrook that he could not speak to an officer in that manner. FF Middlebrook responded that he would go “PTSD” on BC Castelli. BC Castelli added that FF Middlebrook told him that he would break him in a thousand pieces. FF Middlebrook additionally stated that he had thought about killing BC Castelli three other times. No additional comments were reported. After this interaction, BC Castelli and FF Middlebrook went to separate sides of the station. BC Castelli notified DC Martin of the incident.

Upon DC Martin’s arrival at the station, both BC Castelli and Lt. Greathouse expressed their concern for their safety if FF Middlebrook were to remain on shift. To ensure a safe working environment for all employees, DC Martin stated that he spoke with FF Middlebrook about the incident. FF Middlebrook reiterated that “I will cut him into 1000 pieces, I don’t care he is a liar and the county always protects him.” Based upon FF Middlebrook’s state of mind, DC Martin stated “It was readily apparent that FF Middlebrook was not going to be a reliable employee for the remainder of the shift. I felt that FF Middlebrook was a threat to his coworkers, the public and possibly himself, if he remained on duty.” DC Martin then relieved FF Middlebrook of duty for the remainder of the shift.

The documentation of the incident was provided to me by the Fire Services Director and added to the case file as items 3, 4, and 5.

Battalion Commander Nicholas Castelli:

I conducted an interview with Commander Castelli at Fire Administration of November 18, 2014.

Cdr. Castelli told me that on November 7, 2014 at approximately 2100 hours, he observed FF Middlebrook backing an apparatus into the station’s bay without a required backer. Lt. Greathouse was still seated in the passenger seat of the engine. Cdr. Castelli advised that as FF Middlebrook’s vehicle came to a stop, he put his hands in the air and stated “Really!” He then looked toward Lt. Greathouse and asked “Okay, so who wants the write-up?” Cdr. Castelli said that immediately after asking the question, FF Middlebrook got out of the truck, slammed the door, made a masturbation motion toward the commander, and “jumped right in my face.” Cdr. Castelli advised that at this point, he thought that FF Middlebrook may have been joking and asked “Are you being serious right now?” FF Middlebrook replied “ F you, I don’t want the patch anymore. You can have my patch. I’m out of here. I’ll kick your f’ing ass.” Cdr. Castelli told me that he was using the actual profanities and that he was referring to his paramedic patch when stating “patch.” Cdr. Castelli again asked FF Middlebrook if he was being serious and was again met with profanity and anger. At one point, FF Middlebrook told the commander “I’ll go

post traumatic stress on your ass right now.” Cdr. Castelli told me that Lt. Greathouse intervened by stepping between FF Middlebrook and the commander. Lt. Greathouse told Cdr. Castelli to go back to his office and FF Middlebrook to go to his side of the station to diffuse the situation. Both complied but as FF Middlebrook was walking away, he told Cdr. Castelli that he’d thought about killing him three other times and that he wanted to “break me into a thousand pieces.”

Cdr. Castelli told me that he felt threatened by FF Middlebrooks actions. The commander told me that he never raised his voice or used profanity during the interaction. When questioned, Cdr Castelli advised that he didn’t remember FF Middlebrook ever conducting himself in a manner displayed on November 7, 2014. Cdr. Castelli advised that he always had, what he perceived, as a professional relationship with FF Middlebrook dating back to FF Middlebrook’s hire date.

This interview was transcribed and added to the case file as item 6.

Lieutenant Jeremiah Greathouse:

I conducted a sworn interview with Lt. Greathouse on November 18, 2014 at Fire Station 11.

Lt. Greathouse recalled the incident similar to Cdr. Castelli. He told me that he was partnered with FF Middlebrook on November 7, 2014. They had run several calls for service on that day and upon their return to the Fire Station, FF Middlebrook did not stop the vehicle to allow him time to exit the apparatus to act as a “backer” for their vehicle in this instance or any of the previous instances. He acknowledged that he should have been insistent on using a backer as he is very aware of the policy.

When Cdr. Castelli threw his arms up and asked “Who am I going to have to write-up,” Lt. Greathouse believed that this statement was directed at him as he is the commanding officer. Lt. Greathouse perceived this statement as sarcastic and not a serious issue. Lt. Greathouse told me “He’s going to say something to us, but it’s not serious.” Lt. Greathouse told me that FF Middlebrook took the statement differently and told Cdr. Castelli “If you’re going to fucking write somebody, write me the fuck up.” Lt. Greathouse told me that Cdr. Castelli remained calm while FF Middlebrook continued to shout obscenities at him and told FF Middlebrook “Look...Don’t talk to me that way. Don’t think you can talk to me that way.” Cdr. Castelli never raised his voice nor used foul language toward FF Middlebrook throughout the incident. When Cdr. Castelli told FF Middlebrook “Don’t think you can walk by me and say that,” FF Middlebrook stated “I’ll go PTSD on you” and something along the lines of “I’ll tear you up or I’ll cut you up.” Cdr. Castelli responded by stating “Well, I’m right here. I’m not afraid of you. I’m not going anywhere.” FF Middlebrook then aggressively approached Cdr. Castelli and Lt. Greathouse physically blocked his approach. Lt. Greathouse believed that if he had not intervened, FF Middlebrook would have become physically violent with the Commander. Lt. Greathouse was unsuccessful in his attempts to diffuse the situation by calming FF Middlebrook and told Cdr. Castelli to go to his side of the station. The Commander complied and FF Middlebrook calmed down at this point.

Lt. Greathouse explained that the incident occurred at the front of the station’s bay and was visible to several residences in the area. He explained that he wanted to end the incident as soon as possible to avoid observation by any members of the public.

Lt. Greathouse told me that once FF Middlebrook was able to calm down; both he and Middlebrook went to Cdr. Castelli’s office and apologized for their actions. During this conversation, FF Middlebrook told Cdr. Castelli that he had thought about killing him three times. When Cdr. Castelli asked why, FF Middlebrook responded “Yeah, you screwed me back when I was at (Station) 18. I won’t forget that.” FF Middlebrook added “I don’t trust you because of that. I’m never going to trust you. You screwed me. I’ll

never forget that.” Lt. Greathouse was unsure of the situation that occurred at Fire Station 18 between Cdr. Castelli and FF Middlebrook.

Lt. Greathouse told me that he later explained the situation to Division Chief Martin and FF Middlebrook was sent home for the remainder of the shift.

This interview was transcribed and added to the case file as item 7.

Firefighter Eric Middlebrook:

I conducted a sworn interview with FF Middlebrook on November 21, 2014 at Public Protection Administration. FF Middlebrook and his Union representative, Lt. Jeff Marris, were provided copies of all interview transcripts and memoranda relating to this case prior to the interview.

At the beginning of the interview, I asked FF Middlebrook to describe his version of the altercation at Station 11 on November 7, 2014. FF Middlebrook told me that incident occurred as described by Cdr. Castelli and Lt. Greathouse with very few corrections. FF Middlebrook told me that he had backed the fire apparatus into the bay several times that day without utilizing a backer, including the instance that was witnessed by Cdr. Castelli. His initial perception when Cdr. Castelli asked “Okay, who have I got to write up? You? Or am I going to write up the Lieutenant?” was that the Commander was not joking. FF Middlebrook admitted that his reaction was unprofessional when he responded “I don’t f’ing care. I don’t give a fuck. Write me up. I don’t care.” He denied that he made a masturbation motion with his hands and insisted that the motion in question was him throwing his hands up from the waist as to say “I don’t care.” FF Middlebrook told me that he did tell Cdr. Castelli “I’ll break you up into a thousand pieces,” I’ll go PTSD on you,” and “I’ve thought about killing you three other times.” All of these phrases were said at some point during the altercation with Cdr. Castelli but FF Middlebrook could not recall the exact order.

FF Middlebrook felt that Cdr. Castelli was antagonizing him throughout the incident by telling things like “I’m not afraid of you. Where are you going.” FF Middlebrook did tell me that the Commander never lost composure by raising his voice or using profanity. FF Middlebrook explained that he was 12-18 inches away from Cdr. Castelli during the altercation but he did not believe that he would have escalated to a physical fight. FF Middlebrook told me that he has never started a fight but he will defend himself if the need arises.

FF Middlebrook explained that normally, he would not have reacted to Cdr. Castelli in such a fashion. He normally would have accepted the commander’s criticism in a professional manner. FF Middlebrook told me that events earlier in the day had made him upset and increased his stress level. FF Middlebrook explained that earlier in the day on November 7, 2014, he had been contacted by Quality Assurance Coordinator Greg Payne in regards to an EMS patient care report (PCR). FF Middlebrook didn’t agree with Mr. Payne that a PCR needed to be written in the specific incident since the patient care provided by FF Middlebrook was in the presence of the transporting paramedic (EMS Division Paramedic). FF Middlebrook had not documented this type of patient care in the past although he acknowledged that Chief Smith had recently sent out a directive indicating that a PCR should be written any time patient care is administered. FF Middlebrook felt that if forced to write the report, he (Middlebrook) would be falsifying records due to the report software not accepting the proper times of the incident. Mr. Payne’s documentation of this conversation (Item 9) indicates that FF Middlebrook was asked to document the intervention times between his “on scene” and “in service” times since FF Middlebrook was not aware of the exact intervention times. As a result of this discussion, FF Middlebrook was trying to voluntarily demote to FF EMT. Although FF Middlebrook had been thinking about voluntarily demoting for several months, this decision caused him to be frustrated the rest of the day.

I asked FF Middlebrook if he noted any inaccuracies in the reports or interviews related to this case. He told me that the sequence of events and comments may be out of order but the actual comments are accurate. He also told me that while Cdr. Castelli and Lt. Greathouse may have taken Cdr. Castelli's initial comment "Who am I going to have to write up" in a joking manner, FF Middlebrook did not.

I asked FF Middlebrook if he believed that he violated the alleged policies during this incident. The following were his responses:

- Yes** *Volusia County Merit Rules and Regulations. 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.*
- Yes** *Volusia County Merit Rules and Regulations. Sec. 86-453. Reasons for disciplinary action (13): Any conduct, on or off duty, that reflects unfavorably on the county as an employer.*
- Yes** *Volusia County Division of Fire Services Standard Operating Guidelines 100.041: Members shall not conduct themselves in an immoral, indecent, lewd or disorderly manner. They shall not be guilty of misconduct, conduct unbecoming an officer, or acts that tend to discredit the Department, even though such conduct is not specifically set forth in these rules.*
- Yes** *Volusia County Division of Fire Services Standard Operating Guidelines 100.042: All members shall exercise a level of composure in the performance of their duties.*
- Yes** *Volusia County Division of Fire Services Standard Operating Guidelines 100.007: All members shall treat and address each other in a courteous manner. They shall work together in harmony and exhibit a courteous demeanor in their relationships with each other. No member shall speak disrespectfully of each other.*
- Yes** *Volusia County Division of Fire Services Standard Operating Guidelines 100.015: No altercations shall be permitted while on duty, or on county property.*

[REDACTED]
[REDACTED] He told me that he will do whatever he is told to prevent incidents like this from occurring again.

This interview was recorded and transcribed. It was added as item 8.

Conclusion:

On November 7, 2014, FF Middlebrook backed a fire apparatus into the bay at Station 11 without the use of a required backer. This action was observed by Battalion Commander Castelli who asked FF Middlebrook and the other occupant of the engine, Lt. Greathouse "Who am I going to have to write up?" While Cdr. Castelli and Lt. Greathouse took this comment as sarcastic, FF Middlebrook admitted that his reaction was unprofessional when he aggressively responded "I don't f'ing care. I don't give a fuck. Write me up. I don't care." FF Middlebrook approached Cdr. Castelli in a threatening manner and shouted at him "I'll break you up into a thousand pieces," "I'll go PTSD on you," and "I've thought about killing you three other times." FF Middlebrook continued to make comments such as these until Lt. Greathouse

diffused the situation by telling Cdr. Castelli to go back to his office. This took place in front of Fire Station 11, which is located in a residential neighborhood, and in plain view of any citizens in the area. FF Middlebrook told me that his anger came from a decision he had made earlier in the day regarding his Paramedic status with the division but agreed that his actions with Cdr. Castelli were unprofessional and insubordinate.

Findings:

Based upon witness testimony and his own admissions, I recommend the following allegations are **sustained** against Firefighter Eric Middlebrook:

Volusia County Merit Rules and Regulations. 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.

Volusia County Merit Rules and Regulations. Sec. 86-453. Reasons for disciplinary action (13): Any conduct, on or off duty, that reflects unfavorably on the county as an employer.

Volusia County Division of Fire Services Standard Operating Guidelines 100.041: Members shall not conduct themselves in an immoral, indecent, lewd or disorderly manner. They shall not be guilty of misconduct, conduct unbecoming an officer, or acts that tend to discredit the Department, even though such conduct is not specifically set forth in these rules.

Volusia County Division of Fire Services Standard Operating Guidelines 100.042: All members shall exercise a level of composure in the performance of their duties.

Volusia County Division of Fire Services Standard Operating Guidelines 100.007: All members shall treat and address each other in a courteous manner. They shall work together in harmony and exhibit a courteous demeanor in their relationships with each other. No member shall speak disrespectfully of each other.

Volusia County Division of Fire Services Standard Operating Guidelines 100.015: No altercations shall be permitted while on duty, or on county property.

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.”



Captain David Vanis



Date



County of Volusia
APR 02 REC'D
Department of Public Protection

INTER-OFFICE MEMORANDUM
Department of Public Protection
125 W. New York Ave., Suite 183
DeLand, FL 32720
386-740-5120 – FAX 386-740-5283

TO: Eric Middlebrook, Firefighter/PM
Division of Fire Services

DATE: April 2, 2015

FROM: George Recktenwald, Director
Department of Public Protection

FILE NO: DPP15-032

SUBJECT: Notice of Suspension Without Pay

REFERENCE: DPP15-013 NOIS

Purpose: The purpose of this memorandum is to provide you with notice of suspension without pay for four (4) twenty-four (24) hour shifts. This action is the result of your violation of County Policy and Division Guidelines. The first two (2) dates of your suspension without pay will be Friday, April 17, 2015, Monday, April 20, 2015. You will return to work on Thursday, April 23, 2015. The last two (2) dates of your suspension without pay will be Wednesday, May 20, 2015 and Saturday, May 23, 2015. You will return to work on Tuesday, May 26, 2015.

Your received my notice of intent to suspend on Thursday, February 19, 2015. You contacted my office requesting to meet. On Wednesday, March 4, 2015, you and I met at the Public Protection Administration office in DeLand, along with Deputy Director Terry Sanders, Fire Chief/Division Director Jeff Smith, and your union representative, Battalion Chief Mike Inglett. At that time, you provided information in regards to what transpired on November 7, 2014 and you were remorseful for your actions. While I can sympathize with your explanation for your actions, I cannot condone this type of behavior, especially when it involves your superior officers. Therefore, I have decided to reduce your suspension without pay from two weeks to four (4) twenty-four (24) hour shifts. The suspension days are to be served as noted above, and you are advised that there shall be no voluntary overtime allowed in these pay periods to make up the time.

Background Information: On Friday, November 7, 2014, you were relieved from duty due to an altercation involving you and Battalion Chief (BC) Nicholas Castelli. [REDACTED]

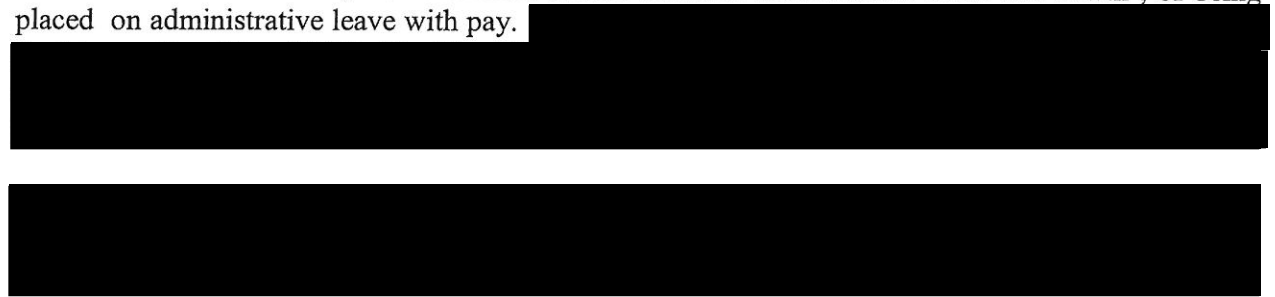
On Friday, November 7, 2014, you and Lt. Jeremiah Greathouse returned to station 11 after an EMS call. You were driver and were backing the fire apparatus into the bay and Lt Greathouse was sitting in the passenger seat of the vehicle. BC Castelli witnessed you backing the apparatus without a backer as required by Fire Services Standard Operating Guidelines. As the fire apparatus came to a stop, BC Castelli looked at you and Lt. Greathouse and asked "Who wants the reprimand?" As you exited the driver's seat you made an obscene gesture and began shouting obscenities at BC Castelli in an aggressive manner. BC Castelli asked if you were serious in which you responded you were and again told BC Castelli "I will kill you." BC Castelli advised you that you could not speak to an officer in that manner, to

(continued)

which you responded you would go "PTSD" on him. Lt. Greathouse stepped in between you and BC Castelli and he requested that you go to the dayroom. After this interaction you and BC Castelli went to separate sides of the station. BC Castelli contacted his supervisor, Division Chief (DC) Tim Martin, to notify him of the incident.

Division Chief Martin arrived at station 11 and spoke with BC Castelli and Lt. Greathouse about the incident. Both expressed their concern for their safety to DC Martin if you were to remain on shift. DC Martin spoke with you about the incident and you reiterated that you would "cut him (BC Castelli) into 1,000 pieces, and called BC Castelli a liar. DC Martin relieved you of duty for the remainder of your shift.

You were off duty November 9th and 12th, 2014 and on November 14, 2014 you were notified via Memorandum FSD14-128, from Division of Fire Services Director/Fire Chief Jeff Smith, of being placed on administrative leave with pay.



Based on information provided to me from Division Director Chief Smith, I directed Dave Vanis, Internal Affairs Investigator, to conduct an internal investigation into circumstances surrounding your actions on November 7, 2014. Upon conclusion of the investigation it was determined that you had violated the following Volusia County Merit Rules and Fire Services Operating Guidelines.

Violations: Volusia County Merit System Rules and Regulations –Division 13 Reasons for Disciplinary Actions Sec 86-453 Reasons for Disciplinary Action (8); and (13):

Sec. 86-453

- (8) ... 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 Division of Fire Services – Standard Operating Guidelines- I-102.001 under General Rules 100.007; 100.015; 100.041; and 100.042:

- 100.007 All members shall treat and address each other in a courteous manner. They shall work together in harmony and exhibit a courteous demeanor in their relationships with each other. No member shall speak disrespectfully of each other.
 - 100.015 No altercations shall be permitted while on duty, or on county property.
 - 100.041 Members shall not conduct themselves in an immoral, indecent, lewd or disorderly manner. They shall not be guilty of misconduct, conduct unbecoming an officer, or acts that tend to discredit the Department, even though such conduct is not specifically set forth in these rules.
 - 100.04 All members shall exercise a level of composure in the performance of their duties.
- (continued)

Conclusion: Accordingly and based on your actions on November 7, 2014, and consistent with the recommendation of your chain of command, I am issuing you this letter of suspension without pay for four (4) twenty-four (24) hour shifts. This action is the result of your violation of County Policy and Division Guidelines. The first two (2) dates of your suspension without pay will be Friday, April 17, 2015, Monday, April 20, 2015. You will return to work on Thursday, April 23, 2015. The last two (2) dates of your suspension without pay will be Wednesday, May 20, 2015 and Saturday, May 23, 2015. You will return to work on Tuesday, May 26, 2015. The suspension days are to be served as noted above, and you are advised that there shall be no voluntary overtime allowed in these pay periods to make up the time.

Your display of anger, verbal abuse and disrespect towards your Battalion Chief in front of your Lieutenant is unacceptable and will not be tolerated in the future. Your threat is particularly troubling, and had you not shown remorse [REDACTED] you would have been terminated. You need to continue to work on your temper and never allow this to happen again.

Please be advised that further violations of Division and/or County policy may result in more severe discipline up to, and including dismissal. If there is anything I or Chief Smith can do to assist you to improved performance, please let me know.

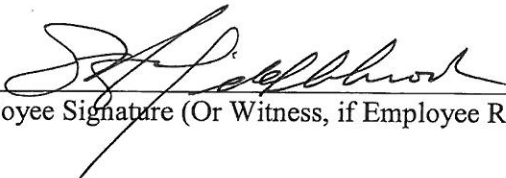
Action: In accordance with section 86-485 (a)(3) of the Merit System Rules and Regulations you have ten (10) working days from receipt of this notification (or effective date of the suspension) to appeal this action through the County Personnel Board. Should you decide to exercise your right to appeal, submit your written request to the County Personnel Office, 230 N. Woodland Blvd., Suite 262, DeLand, FL 32720.

Pursuant to Merit Rule 86-455, the Legal Department and the Human Resources Director have reviewed this notice and concur with the proposed action.

GR/tab

cc: ___ Terry Sanders, Deputy Director, Public Protection
___ Jeff Smith, Director/Fire Chief, Fire Services
___ Tom Motes, Human Services Director
___ Tammy King, EEO Coordinator
___ County Attorney's Office

I certify that I have read this notification and acknowledge receipt of the original copy.



Employee Signature (Or Witness, if Employee Refuses to Sign)

4/2/15

(Date of Signature)