



Rick Staly, Sheriff
FLAGLER COUNTY SHERIFF'S OFFICE

"An honor to serve, a duty to protect."

Internal Investigation Report

Internal Inquiry Incident #2019-0115

Sworn Employee

Detention Deputy J. Tazewell

Date: September 23, 2019

Subject Employee: Detention Deputy J. Tazewell

Division: Detention Services Division

Date of Hire: 09/14/2016

Probation Status (if any): NONE

Date of Most Recent Promotion: N/A

Previous Corrective Measures: 3/30/19 Written Counseling regarding Sick Leave

List of Witnesses:

Sergeant M. Sa
Cpl. M. Nicholas
Dep. M. Remish
Dep. J. Crouch

List of Exhibits:

- **Exhibit 1: Criminal Investigation File**
- **Exhibit 2: Memorandum Detective R. Petkovsek to Chief M. Strobridge**
- **Exhibit 3: Videos**
- **Exhibit 4: Interview of Sgt. M. Sa**
- **Exhibit 5: Interview of Cpl. M. Nicholas**
- **Exhibit 6: Interview of Dep. M. Remish**
- **Exhibit 7: Interview of Dep. J. Crouch**
- **Exhibit 8: Interview of Dep. J. Tazewell**

Distribution: Original to investigative file

Linked To: General Order #019

FCSO # IA-004 (08/18)

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Incident and Complaint:

On Tuesday, April 23, 2019 a response to resistance incident occurred at the Flagler County Inmate Facility involving an inmate Mark Duncanson and Detention Deputy J. Tazewell. On Wednesday, April 24, 2019 Flagler County Sheriff's Office, Detective R. Petkovsek was assigned to investigate the incident for possible criminal charges.

Upon completing the investigation, Det. Petkovsek sustained probable cause to charge inmate Duncanson with Battery on a Law Enforcement Officer and a charging affidavit was completed and submitted to the State Attorney's Office. In response to being battered Dep. Tazewell, struck inmate Duncanson with a closed fist to the left side of his face. The investigation revealed that Dep. Tazewell's response to resistance did not rise to the level of criminal battery. The case was presented to Assistant State Attorney, J. Lewis the Chief of Operations North for review. Upon completing the file review ASA J. Lewis determined that no criminal charges were warranted against Dep. Tazewell and the fact that Inmate Duncanson had been determined incompetent in a previous case and sent a state hospital, criminal prosecution would not be warranted at this time.

On Thursday, June 13, 2019, Det. Petkovsek generated a memorandum to Chief M. Strobridge via chain of command regarding the final disposition of his investigation case #2019-39114. On Wednesday, June 19, 2019, Chief M. Strobridge authorized Detective Randall Doyle to conduct an internal investigation.

At this point a thorough review of Det. Petkovsek's case file has been reviewed along with a review of all available video from the inmate facility. Upon review it was determined that the following interviews were conducted to facilitate the internal investigation.

Interview: Sergeant M. Sa

On Tuesday, August 13, 2019 at 1806 hours, Detention Sgt. M. Sa was interviewed at 1002 Justice Lane the Flagler County Perry Hall Inmate Facility. Sgt. Sa was sworn in and asked to provide details on how he became involved in this incident and what action he took.

Sgt. Sa advised that he was in the housing area when he heard a "code blue staff" call go out over the radio in a holding cell 4. Sgt. Sa advised that he ran to the location and observed Dep. Tazewell on top of inmate Duncanson and Cpl. Nicholas holding taser point at the inmate. Inmate Duncanson was then handcuffed by deputies Remish and Sheridan. Sgt. Sa advised that he/Sgt. Sa left the area quickly to advise his supervisor of the incident and to review the video.

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Sgt. Sa was asked to describe what he observed in the video and what his immediate reaction was. Sgt. Sa advised that as Dep. Tazewell opened the cell door and was waiting for the inmate to exit and as Duncanson reached the open door he/Duncanson through his walker at Dep. Tazewell and then, "Tazewell went back and closed fist inmate Duncanson."

Sgt. Sa advised, "me personally I didn't like the way it looked so, I immediately called Commander Pasquariello and asked him to come take a look." Upon reviewing the video with Cmdr. Pasquariello he as well did not like what he observed and directed Sgt. Sa to generate the necessary reports to document the incident.

Sgt. Sa was asked to explain what he meant when he said he didn't like what he had observed. Sgt. Sa explained that he did not like the closed fist strike and that it was to the inmates left jaw area. Sgt. Sa observed Duncanson fall backwards into his cell and then observed Dep. Tazewell attempt to secure him until assistance could arrive. Sgt. Sa was asked to describe the walker he identified Duncanson as throwing at Dep. Tazewell. Sgt. Sa advised it was an aluminum walker and he believed it to weigh less than 5 pounds.

Det. Doyle, "Based on your training and the training provide to the deputies do you feel that the amount of force Dep. Tazewell used was appropriate and necessary?" Sgt. Sa, "He could have had another means of deescalating the situation by possibly just pushing inmate Duncanson into the cell and shutting the cell on him." Sgt. Sa was also asked about the "Pen" that was in inmate Duncanson's possession being able to cause serious bodily injury. Sgt. Sa advised that in an unaltered state, he does not believe it to be dangerous.

Sgt. Sa advised that Dep. Tazewell was sent to a local medical facility to be checked for injuries due to Deputy Tazewell identifying that he hurt his wrist in the altercation. Dep. Tazewell was found to have a sprained wrist and was then placed on light duty with inmate restrictions with no inmate contact. Dep. Tazewell remains in this duty assignment.

Interview concluded at 1820 hours.

Interview: Corporal M. Nicholas

On Monday, August 12, 2019 at 1701 hours, Detention Corporal M. Nicholas was interviewed at 1002 Justice Lane the Flagler County Perry Hall Inmate Facility. Cpl. Nicholas was sworn in and asked to provide details on how she became involved in this incident and what action she took.

Cpl. Nicholas advised that while on duty that day she heard Dep. Tazewell call code over the radio however, Cpl. Nicholas could not determine what code he called so she asked the control room operator

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via her handheld radio to confirm the code. At this point code blue staff (an incident between an inmate and a staff member) and the location was transmitted over the radio. Cpl. Nicholas advised that she immediately responded to the identified location. Upon arriving at confinement #4, Cpl. Nicholas observed Dep. Tazewell “to be shaken up.” Cpl. Nicholas then asked Dep. Tazewell what happened. Dep. Tazewell advised that inmate Duncanson through his walker at him. Once the inmate was secure Cpl. Nicholas escorted Dep. Tazewell to the booking area to relax because she could see that Dep. Tazewell was shaken and upset. Dep. Tazewell informed Cpl. Nicholas at that time that he had injured his wrist. Cpl. Nicholas then returned to the location of the incident in an attempt to determine what actually occurred. Cpl. Nicholas was not present when the incident actually took place.

Cpl. Nicholas advised that she instructed Dep. Tazewell to go to “Carehere” to have his wrist looked at while she and Sgt. Sa reviewed the video. Cpl. Nicholas advised that she observed Dep. Tazewell open the cell door for Duncanson at which time, Duncanson threw his walker at Dep. Tazewell striking him in the upper body. Cpl. Nicholas advised that Dep. Tazewell reacted by swinging his right arm at inmate Duncanson

Det. Doyle, “based on your experience and training please advise what your impression was when you first observed the video?” Cpl. Nicholas, “Oh shit.” Det. Doyle, “what was that response based upon?” Cpl. Nicholas, “Why did Tazewell do that?” Cpl. Nicholas was then asked if she believed Dep. Tazewell reacted appropriately. Cpl. Nicholas advised after a long pause, “No I don’t think he acted properly.” Cpl. Nicholas advised that she believed Dep. Tazewell was defending himself. Cpl. Nicholas was asked what she was basing her response on. Cpl. Nicholas explained that in the academy they train to defend based on defensive tactics. Cpl. Nicholas then advised that Dep. Tazewell could have reacted more appropriately. Cpl. Nicholas was then asked that if she were directed to investigate this incident based on being Dep. Tazewell’s supervisor, would she be recommending disciplinary action against Dep. Tazewell. Cpl. Nicholas answered swiftly yes.

Cpl. Nicholas was presented with a copy of Dep. Tazewell’s response to resistance form and asked to review it. Cpl. Nicholas advised that she believed the levels indicated were higher than should be for the incident and she did not see the pen cartridge in the inmates hand at the time of the incident

Interview concluded at 1717 hours.

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Interview: Dep. M. Remish

On Tuesday, August 13, 2019 at 1836 hours, Detention Deputy M. Remish was interviewed at 1002 Justice Lane the Flagler County Perry Hall Inmate Facility. Dep. Remish was sworn in and asked to provide details on how he became involved in this incident and what action he took.

Dep. Remish advised that he responded to a “code blue staff” to confinement #4. Upon arriving at said location Dep. Remish observed inmate Duncanson down onto the floor. Dep. Remish remembers hearing Duncanson yelling and hollering at which time, he/Dep. Remish, Dep. Sheridan and Sgt. Sa handcuffed Duncanson and Dep. Tazewell was escorted away. Dep. Remish advised he did not witness the incident and only heard Dep. Tazewell advise that Duncanson tried to hit him with the walker. Dep. Remish advised that medical staff were called to check Duncanson over at which time, Duncanson was cleared and re-secured within his cell. Dep. Remish was asked if Duncanson asked made any statements to him. Dep. Remish advised that Duncanson informed him and everyone around that he got punched in the face. Dep. Tazewell made no other statements to Dep. Remish at that time. Dep. Remish was asked if he observed the video to which he/ Dep. Remish replied that he did not.

Upon questioning Dep. Remish about the response to resistance in this matter he was quick to explain that he could comment on what he would or wouldn't have done in this matter because each one of these incidents are different and he has not viewed the video as previously stated.

Interview concluded at 1849 hours.

Interview: Dep. J. Crouch

On Wednesday, August 21, 2019 at 1806 hours, Detention Deputy J. Crouch was interviewed at 1002 Justice Lane the Flagler County Perry Hall Inmate Facility. Dep. Crouch was sworn in and asked to provide details on how he became involved in this incident and what action he took.

Dep. Crouch advised that his assignment for the day was central annex housing control room operator and at the time of this incident he heard some noises coming from the confinement cell areas. Dep. Crouch attempted to see what was going on however, he could not see anything at the time. Dep. Crouch then asked Dep. Tazewell if everything was alright or needed assistance at which time he/Tazewell did not respond. Dep. Crouch heard more noise and then Dep. Tazewell say something over the radio that he could not understand. Dep. Crouch then called “code blue staff” over the radio and requested assistance to confinement. Dep. Crouch was still uncertain what occurred and is restricted to his location so he did not respond to Tazewell's location.

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Dep. Tazewell advised he did not witness any of the activity in person however, he did view the video. Dep. Crouch advised that he observed inmate Duncanson exiting the cell and raise his walker up in the air about chest level to Dep. Tazewell at which time, Dep. Tazewell slapped or pushed the walker away and then struck Duncanson in the right side of his face.

Dep. Crouch was asked what his reaction was to what he observed on the video. Dep. Crouch advised that it surprised him however, he could not say how he would have reacted if he had been in the same position. Dep. Crouch advised that he was surprised that Dep. Tazewell actually threw a punch however, believes it was more reactionary then malicious. Dep. Crouch was asked about the pens that are supplied to inmates for writing letters and if he believed them to be a dangerous weapon by themselves and unaltered. Dep. Crouch advised no.

Dep. Crouch was asked if he was familiar with the use of force continuum and he advised that he was. Dep. Crouch was asked if he thought Dep. Tazewell could have used a different step in that continuum in response to the inmates actions. Dep. Crouch again advised that he was not engaged with the inmate and does not know how he might of reacted at the time. Dep. Crouch advised that he could have used verbal commands, he could have pushed the inmate back or he could have closed the door however, it remains difficult to know exactly how one would or should react in the same encounter.

Interview concluded at 1815 hours.

Interview: Detention Deputy Jarrod Tazewell

On Thursday, September 19, 2019 at 1700 hours, Detective Doyle met with Dep. Tazewell and PBA Attorney Greg Forhan at 1002 Justice Lane the Flagler County Perry Hall Inmate Facility. Detective Doyle provided interviews and documents related to this investigation for review. This review included the criminal investigation file provided by Det. R. Petkovsek as well as video documentation from the inmate facility on the date in question.

Upon completion of the review, Detention Deputy Jarrod Tazewell was interviewed at 1832 hours. Dep. Tazewell was read the Garrity Notice in sworn in. Present for the interview was Coastal PBA, Attorney Greg Forhan.

Deputy Tazewell was asked to start by advising how the incident began and what actually took place in his words. Dep. Tazewell advised that he was assigned to annex housing and was responding to inmate Duncanson's cell to escort him to a video visit. Dep. Tazewell advised that this was normal routine and he/Tazewell is very familiar with Duncanson.

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Dep. Tazewell advised that he arrived at Duncanson's cell and unlocked it. Tazewell advised that he had to verbally awaken Duncanson from his sleep. Tazewell advised that Duncanson became upset because he was informed that they were late for the visit however, Tazewell informed him that they were going to make the time up. Tazewell advised that Duncanson was talking about going to another place/world and time at which time, Duncanson said I'm going to take you. It was at this point Duncanson picked up his walker and threw it at his/Tazewell's face. Tazewell advised that everything happened really fast at which time, Tazewell reacted by striking Duncanson in the face. Tazewell advised that Duncanson fell to the floor and continued to talk about another world. Tazewell explained that he advised Duncanson to stay on the floor however, he/Duncanson started to get up. Tazewell advised that he/Tazewell then slipped as he went to secure Duncanson and hurt his wrist. Tazewell attempted to restrain Duncanson however, he/Duncanson continued to actively resist. Tazewell advised that he then called the code but no one heard him. Tazewell advised that he heard the control room asking him if he was ok however, they did not hear his response that he was not. Tazewell again advised that this all happened very quickly and once the other deputies arrived he was removed from the location. Tazewell was taken to the booking area and was then sent to get medical attention.

Dep. Tazewell was asked about the pen that was identified in his report and his response to resistance form. Dep. Tazewell advised that when Duncanson was getting up he believed Duncanson had the pen during the incident because it was laying right there next to him at the time. Dep. Tazewell then advised he later realized that he did not actually have the pen and advised that his account of Duncanson coming at him with the walker, "I thought I saw then pen but that was a mistake." Dep. Tazewell advised he was able to verify this once he was able to review the video. Det. Doyle presented a pen known as an inmate pen and Dep. Tazewell verified that the pen he described was in fact the same as the one shown to him or one identical to it.

Dep. Tazewell was then asked to advise what his prior knowledge of inmate Duncanson is. Dep. Tazewell advised that he has always been known to urinate himself frequently and to act very strange but not violent and has never actually been physical with anyone. Dep. Tazewell advised that he/Tazewell has been assigned to take him for his hip surgery and had no incidents with Duncanson. Dep. Tazewell advised that based on his interactions and observations with inmate Duncanson he did not believe Duncanson to be of right mind and body.

Dep. Tazewell was then asked about the walker thrown at him by Duncanson. Tazewell was asked how much he believed the walker weighs. Tazewell, "Hardly anything." Det. Doyle, "At what point did you become nervous, frightened or concerned about your wellbeing?" Dep. Tazewell, "When he instantly tossed that walker in my face. It surprised me. That triggered the reaction." Det. Doyle, "He just had hip surgery correct? How did his actions and capabilities get to the point where you struck him in the face?"

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Dep. Tazewell, "The walker, I thought I saw the pen all of that came into play instantly and I didn't know what he was going to do, I needed to get him away from me though. My body just reacted." Dep. Tazewell was asked if he had defensive tactics in the corrections academy and he advised that he had. Dep. Tazewell advised that he has had additional defensive tactics training in the recent past as well. Dep. Tazewell is also familiar with the Use of Force Continuum however, when asked to give a brief understanding of it Dep. Tazewell advised, "I would have to look it up and review it again." Dep. Tazewell was asked if looking back to the day of the incident and the time he has had to reflect on his actions Detective Doyle asked, "Do you feel that you reacted appropriately on that day?" Dep. Tazewell, "With what I thought at the time yes." Det. Doyle, "Do you think the level of force you chose meets the Use of Force Continuum? You did hit him with a closed fist correct." Dep. Tazewell, "Yes." Dep. Tazewell, "Based on what we just talked about I would say no, if I had it to do over again and time to think that would not have happened."

Attorney Forhan was asked if he had anything to add at which time, Attorney Forhan asked Dep. Tazewell when the walker was thrown at you did you analyze the threat and make a conscious decision to punch Duncanson or was it an instinctual reaction to the threat? Dep. Tazewell advised it was simply a reaction for which he did not have time to think about a more tactical response based on policy.

Dep. Tazewell and Attorney Forhan took a break at approximately 1855 hours and upon their return no further questioning took place.

The Interview was concluded at 1912 hours.

Discussion:

On Tuesday, April 23, 2019 a response to resistance incident occurred at the Flagler County Inmate Facility involving an inmate Mark Duncanson and Detention Deputy J. Tazewell. On Wednesday, April 24, 2019 Flagler County Sheriff's Office, Detective R. Petkovsek was assigned to investigate the incident for possible criminal charges.

On Thursday, June 13, 2019, Det. Petkovsek generated a memorandum to Chief M. Strobridge via chain of command regarding the final disposition of his investigation case #2019-39114. On Wednesday, June 19, 2019, Chief M. Strobridge authorized Detective Randall Doyle to conduct an internal investigation.

Based on the review of Detective R. Petkovsek's Criminal Investigation, the surveillance video of the incident and the interviews conducted by Detective Doyle, there is enough information to conclude that Flagler County Sheriff's Office Policy has been violated as it relates to Use of Force.

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Findings:

This investigation has been **Sustained** for the following violation.

Flagler County Sheriff's Office General Order 020 Standards of Conduct

Category Eight Violations: (8) (h) Excessive Use of Force: Personnel shall not use more force in any situation than is reasonably necessary under the circumstances. Personnel shall use force in accordance with law and agency written directives.

Disciplinary Action: Flagler County Sheriff's General Order 019 outlines punishment for Category 8 Violations as follows. Suspension of more than 168 hours, and/or demotion, and/or termination.

To be Completed by the Investigating Supervisor or Official:

"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 rights contained in ss. 112.532 and 112.533, Florida Statutes.

Signature

Date

Sworn to and subscribed before me, the undersigned, this day, month, year.

Notary

Reviewing Supervisor Printed Name

Date

Signature of Reviewing Supervisor

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