



Rick Staly, Sheriff
FLAGLER COUNTY SHERIFF'S OFFICE
"An honor to serve, a duty to protect."

Internal Investigation Report

Internal Inquiry Incident #2018-13

Sworn Employee

Deputy Robert Finn

Internal Inquiry Incident #: 2018-13

Subject Employee: Deputy Robert Finn

Division: Community Policing Division

Date of Hire: 06/15/2011

Probation Status (if any): N/A

Date of Most Recent Promotion: N/A

Previous Corrective Measures: N/A

List of Witnesses:

- **Commander Mike Fink, FCSO**
- **Corporal Jason Tolman, FHP**
- **William Manning, citizen**

List of Exhibits:

- **Exhibit 1: Dep. R. Finn report (FCSO 35289-18)**
- **Exhibit 2: FHP Report (FHPG180FF014491)**
- **Exhibit 3: Cmdr. M. Fink interview (3a and 3b)**
- **Exhibit 4: C. Getz Statement**
- **Exhibit 5: W. Manning Statement**
- **Exhibit 6: Route of travel map**
- **Exhibit 7: Timeline**
- **Exhibit 8: LE 1 Radio Traffic**
- **Exhibit 9: Blank map**
- **Exhibit 10: Dep. A. Cowan Axon (I-95 crash)**
- **Exhibit 11: Dep. C. Taylor Axon (I-95 crash)**
- **Exhibit 12: Dep. R. Finn Axon (I-95 crash)**
- **Exhibit 13: Dep. R. Finn Axon (7 Carlson Ct.)**
- **Exhibit 14: Dep. B. Colson Axon (7 Carlson Ct.)**
- **Exhibit 15: AVL footage (Dep. R. Finn)**
- **Exhibit 16: Radio Traffic Channel 7**

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- **Exhibit 17: Radio Traffic Channel 8**
- **Exhibit 18: Radio Traffic Channel 5**
- **Exhibit 19: Radio Traffic Channel 6**
- **Exhibit 20: Radio Traffic Channel 8 cont.**
- **Exhibit 21: Cmdr. C. Sepe notes**
- **Exhibit 22: Email from IT**
- **Exhibit 23: Dispatch notes**
- **Exhibit 24: 35289-18 Case/Incident print out**
- **Exhibit 25: 35286-18 Case/Incident print out**
- **Exhibit 26: Authorization forms**
- **Exhibit 27: Cmdr. M. Fink forms**
- **Exhibit 28: Dep. R. Finn forms**
- **Exhibit 29: Evidence/Exhibit Review Form**
- **Exhibit 30: Dep. R. Finn interview**

Incident and Complaint:

On 04/16/2018, at about 0204hrs. Deputy Robert Finn was in the area of Laramie Drive when a call for service was put out by dispatch regarding a medical call at 7 Carlson Ct.(**Exhibit 25**). Sgt. Greg Tietje requested that law enforcement respond due to the call history on the residence. Radio traffic was given out on LE 1 channel for B211 (Dep. B. Colson) and B212 (Dep. R. Finn) to respond (**Exhibit 8**). Dep. Colson and Dep. R. Finn both responded on LE 1 channel that they were in route.

See Exhibit 6 and 7 for Timeline and Route of travel for Dep. R. Finn.

At 0208hrs. Dep. Colson advised on LE 1 it was clear for the med unit that was staging to safely respond to the residence (7 Carlson Ct.).

At 0213hrs. a call was put out on LE 1 that there was an accident on I-95 just north of the Palm Coast Pkwy. exit involving two vehicles. Dispatch advised that one vehicle was traveling the wrong way and hit another vehicle.

At 0214hrs. Dep. R. Finn arrived at 7 Carlson Ct. At 0217hrs. Dep. R. Finn left Carlson Ct. and responded to the crash on I-95.

Dep. R. Finn was on scene at the crash for approximately 15 minutes when a witness advised him that he saw a vehicle traveling the wrong way (north) on the southbound exit ramp to Palm Coast Pkwy. and pass “a cop” who was traveling with his lights and sirens activated on the off ramp. This statement was clearly shown on Dep. R. Finns Axon body camera footage reviewed by Cmdr. Chris Sepe. Cmdr. Sepe was able to identify the witness as William Manning and conducted an interview with him (**See Exhibit 5 and Exhibit 21**). Immediately after the witness (W. Manning) made the statement, Dep. R. Finn walked over to Cmdr. Mike Fink, who was at the crash scene, and asked to speak with him. Once Cmdr. Fink and Dep. R. Finn were alone, Dep. R. Finn advised that while he was exiting I-95 southbound at Palm Coast Pkwy (responding

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to 7 Carlson Ct.) he witnessed a vehicle traveling towards him northbound on the southbound off ramp. Dep. R. Finn advised that he slowed down and thought he saw the vehicle turn at the end of the ramp and correct it's course of travel then continue south in the southbound lanes of I-95. (See Statement of Dep. R. Finn for further, **Exhibit 30**).

The crash on I-95 (FCSO case# 35289-18, **Exhibit 24**) (Florida Highway Patrol case# FHPG0FF014491, **Exhibit 2**) resulted in the death of Wendell Parker (driver of vehicle traveling in the wrong direction) and multiple injuries to Cynthia Soto who was the driver of the vehicle that was struck. C. Soto's injuries include 20 screws in her right knee, a plate put into her left forearm and possible nerve damage.

The incident in question is whether Dep. R. Finn's actions/in-actions were within Flagler County Sheriff's Office General Orders.

Investigation:

Statement of Commander Mike Fink taken by Commander Chris Sepe

On Thursday June 14th, 2018 at 1951 hrs, Cmdr. Chris Sepe conducted a sworn interview with Cmdr. Mike Fink at the Palm Coast Sub Station.

The full interview is available in the Internal Affairs case file. Below are the highlights pertaining to this investigation:

- Cmdr. Fink was read the "Template for Interview of Department Employee as a Witness", "Garrity" and "Internal Investigation Confidentiality Acknowledgement" forms.
 - Cmdr. Fink confirmed that he was working on the morning of 04/16/2018 as the Watch Commander and recalled the accident on I-95 involving a head on collision (FCSO case# 35289-18, **Exhibit 24**) and the medical call at 7 Carlson Ct. (35286-18, **Exhibit 25**).
 - Cmdr. Fink responded to the accident call on I-95 and described it as a "head on collision" with a vehicle that was heading northbound in the southbound lanes just north of the Palm Coast Pkwy exit.
 - Cmdr. Fink confirmed that Dep. R. Finn was on scene at the crash.
 - Cmdr. Fink advised that at some point Dep. R. Finn asked if he could speak with Cmdr. Fink and they stepped off to the shoulder of the interstate. According to Cmdr. Fink, Dep. R. Finn stated that he passed the vehicle that was going the wrong way on the off ramp (at Palm Coast Pkwy) while he was in route to the medical call on Carlson Ct.
 - Cmdr. Fink advised that he inquired why Dep. R. Finn did not stop the vehicle and Dep. R. Finn replied that he thought when the subject vehicle got to the end of the ramp, it turned south (to correct it's course of travel) and continue in the correct direction south on I-95.
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- Cmdr. Sepe asked Cmdr. Fink if Dep. R. Finn mentioned anything regarding making a mistake or messing up and Cmdr. Fink replied that Dep. R. Finn knew "*it was very serious.*"

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- Cmdr. Fink stated that when Dep. R. Finn advised what he had witnessed, Cmdr. Fink took Dep. R. Finn over to the Florida Highway Patrol Officer who was investigating the crash to share the information (**Exhibit 1**).
- Cmdr. Fink instructed Dep. R. Finn to write an incident report pertaining to what happened so FHP could utilize it in their investigation.

The interview was concluded at 2006 hrs.

Statement of Deputy Robert Finn taken by Commander Chris Sepe

On Wednesday June 27th, 2018 at 0953hrs. Cmdr. Chris Sepe conducted a sworn interview with Dep. R. Finn at the Flagler County Sheriff's Office Jail Administration Building. Coastal Florida PBA Attorney Greg Forhan was present for the interview.

The full interview is available in the Internal Affairs case file. Below are the highlights pertaining to this investigation:

- Dep. R. Finn was read the "Template for Interview of Subject Employee", "Garrity" and "Internal Investigation Confidentiality Acknowledgement" forms.
- Dep. R. Finn verified that he was able to review all the evidence/exhibits relating to the investigation and Attorney G. Forhan agreed with that (**Exhibit 30**).
- Dep. R. Finn confirmed that he was working the morning of 04/16/2018, and was familiar with a "head on" crash that occurred on I-95.
- At 02:04:11, Dep. R. Finn was in the area of Laramie Drive when a medical call was transmitted over the radio (FCSO case# 35286-18). The supervisor on duty, Sgt. Greg Tietje, requested dispatch to send Law Enforcement to the residence (7 Carlson Ct.) due to a history of drugs there. Sgt. G. Tietje was quoted on the radio stating, "Can you have a deputy respond to that med call too, it's a known signal 31 place (history of drugs)."
- Dep. R. Finn and Dep. B. Colson both independently advised over the radio that they would be responding. (There is no time stamp on the radio channel from the dispatcher at the time, but both deputies transmissions are clearly heard in **Exhibit 8** / 00:18 – 00:24 seconds into the recording)
- At 02:08:36, B211 (Dep. Colson) advised on the radio that it was safe for the med unit (who was staging) to respond.
- At 02:08:43, B212 (Dep. R. Finn) started his response from the area of Laramie Drive.
- Cmdr. Sepe asked Dep. R. Finn if he felt a Code 3 response (lights, sirens and high speeds) were an appropriate response for the call since the deputy on scene (Dep. Colson) had cleared the med unit to respond. Dep. R. Finn said, "***No, however I did not know that he said it was clear for med.***"
- At 02:11:38, Dep. R. Finn was exiting I-95 southbound at Palm Coast Pkwy when he encountered a vehicle going the "wrong" way on the exit ramp.

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- Dep. R. Finn confirmed that when the vehicle traveling the wrong way passed him, Dep. R. Finn still had his emergency lights and sirens activated. Dep. R. Finn could not give an estimate about how fast the subject vehicle was traveling.
- Cmdr. Sepe asked Dep. R. Finn if the vehicle was on the pavement or on the grass and Dep. R. Finn stated it was on *“the pavement”*.
- Cmdr. Sepe asked, *“When the vehicle passed you, what if anything did you do?”*
- Dep. R. Finn advised that when the subject vehicle passed him, *“I slowed down and started looking out my back windows and mirrors to verify where it was going and it appeared to me that the vehicle made a right onto I-95 southbound which would be going with the flow of traffic.”*
- Cmdr. Sepe asked Dep. R. Finn, *“Did you physically see the vehicle turn around and see headlights going southbound?”*
- Dep. R. Finn replied, *“I thought I did, yes.”*
- Cmdr. Sepe then asked if Dep. R. Finn was able to stay on the pavement when the vehicle passed him or if he had to leave the pavement and he replied, *“I know I veered to the right and I was at least somewhat on the pavement, I don’t believe I went into the grass but I couldn’t say for sure.”*
- There was no radio traffic initiated by Dep. R. Finn at this point regarding the vehicle traveling in the wrong direction because Dep. R. Finn thought the vehicle had corrected itself.
- Dep. R. Finn also advised that he stopped his vehicle at one point and got out while on the exit ramp because there was a second vehicle stopped where I-95 southbound and the Palm Coast exit ramp meet. Dep. R. Finn advised that nobody was trying to wave him down and there did not appear that there was an accident or anyone who needed assistance so he continued to 7 Carlson Ct. It should be noted that the second vehicle was not there as Dep. R. Finn exited I-95. (The slow speed and brief stop is verified on Dep. R. Finn’s AVL, **Exhibit 15**)
- Cmdr. Sepe traveled to the area in question and witnessed a clear field of vision from the I-95 southbound off ramp at Palm Coast Pkwy to the vehicles traveling south on the Interstate.

There was a witness to the crash named William Manning who provided a written statement to the Florida Highway Patrol (**Exhibit 5**) along with a verbal statement over the phone to Cmdr. Chris Sepe (**Exhibit 21**).

- Cmdr. Sepe commented to Dep. R. Finn regarding the statement of W. Manning that said the vehicle traveling in the wrong direction went right by the cop with his lights and sirens on and continued off the ramp straight onto I-95 in the wrong direction.
- Cmdr. Sepe asked Dep. R. Finn if he thought there was any validity to W. Manning’s statement. Dep. R. Finn replied, *“Based on the evidence yes, that’s just not how it appeared to me.”*

- Cmdr. Sepe set up the following situation in order to ask Dep. R. Finn a question:
 - It is just past 2am
 - 1 Flagler County Deputy was on scene at 7 Carlson Ct.
 - At least 3 minutes had passed since the med unit was given clearance to respond.
 - Every Deputy is issued NARCAN (med call was a possible overdose)
- Cmdr. Sepe then asked Dep. R. Finn, ***“Did you feel that the necessity to respond to Carlson Ct. outweighed the necessity to pull a vehicle over that was going the wrong way? Even if you thought it corrected itself, do you think that the necessity for you to be at Carlson Ct. was more important than for you to conduct a traffic stop?”***
- Dep. R. Finn replied, ***“I was not aware that it was clear for med unit, at that time I believe my response was still needed at Carlson Ct.”***
- Cmdr. Sepe asked Dep. R. Finn if he agreed that a vehicle traveling the wrong way on the road was Probable Cause for a traffic stop and he replied, ***“Yes.”***
- Cmdr. Sepe asked Dep. R. Finn if he felt like the subject vehicle, traveling in the wrong direction could have been lost or potentially impaired and Dep. R. Finn said that it was ***“possible”***.
- Cmdr. Sepe asked again, ***“You still feel, in your professional opinion, the decision to continue to Carlson outweighed the decision to try and turn around and pull that car over?”***
- Dep. R. Finn responded, ***“Due to believing the vehicle was traveling the correct way with traffic and had corrected itself, yes I believe I needed to be at 7 Carlson Ct.”***
- At 02:13:26, Radio traffic was initiated regarding a traffic crash with two vehicles on I-95. Dispatch advised that one vehicle was traveling in the wrong direction and hit another car. There was road blockage and one car was on fire.
- While the information went out regarding the traffic crash, Dep. R. Finn’s AVL showed his location to be on Palm Coast Pkwy eastbound just east of Old Kings Road.
- Cmdr. Sepe asked Dep. R. Finn why, with all the radio traffic that came out regarding the crash, he chose not to re-route and respond to the crash.
- Cmdr. Sepe asked Dep. R. Finn what his mindset was at that point and Dep. R. Finn responded, ***“I don’t recall specifically but I was not cancelled from the 7 Carlson Ct. call so I continued my response there”***
- Cmdr. Sepe then asked if Dep. R. Finn needed to be cancelled from the medical call in order to re-route to a higher priority call or could you get on the radio and advise that you are going to re-route.
- Cmdr. Sepe specifically asked, ***“Do you need a supervisor’s permission or are you allowed to?”***
- Dep. R. Finn responded, ***“I’m allowed to.”***

- 02:14:57, Dep. R. Finn arrived at 7 Carlson Ct. Dep. Colson and Cpl. Michael Breckwoldt were on scene along with Fire/EMS.
- Once Dep. R. Finn was on scene at 7 Carlson Ct., he was cleared to respond to the crash on I-95 within minutes.
- 02:20:15, Dep. R. Finn arrived at the crash scene on I-95. Once Dep. R. Finn was on scene at the crash, he assisted with several tasks to include helping move a patient, extinguishing flames on one of the vehicles and searching the shoulder/wood line for any possible ejections.
- As Dep. R. Finn was finished searching the shoulder/wood line he walked back onto the Interstate. This is where Dep. R. Finn encountered a witness, William Manning. W. Manning can be seen on Dep. R. Finn's Axon body cam making a statement about how the car passed a cop going the wrong way and then continued onto I-95, then hit that other car head on. (02:35:00)
- Immediately after that statement, Dep. R. Finn walked over to the supervisor on scene, Cmdr. Mike Fink, and asked if they could speak. Dep. R. Finn shut off his Axon body camera at this point but according to Cmdr. Fink's statement, Dep. R. Finn admitted to witnessing the vehicle involved in the crash traveling the wrong way down the exit ramp.
- Cmdr. Sepe asked Dep. R. Finn if he felt there was an opportunity prior to this interaction to express to Cmdr. Fink what he had witnessed. Dep. R. Finn replied, "*I believe that was my first available opportunity.*"

The interview was concluded at 1032hrs.

Discussion:

Dep. R. Finn states that he feels he made the right decisions on the night in question with the information he had at the time. After reviewing everything and learning about all of the facts, Dep. R. Finn admits that he would have chosen differently had he heard all of the radio traffic.

It is unclear if the outcome of the situation would have been different had Dep. R. Finn taken action on the vehicle traveling in the wrong direction.

Findings:

This investigation has sustained the following General Order violation:

Flagler County Sheriff's Office General Order 020 Standards of Conduct III (3) (A) (2) (a) Category 9:

Unsatisfactory or Incompetent Performance: Personnel shall maintain sufficient competency to properly perform their duties and assume the responsibilities of their positions. Personnel shall

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perform their duties in a manner which will maintain the highest standards of efficiency in carrying out the functions and objectives of the Sheriff's Office. Unsatisfactory performance may be demonstrated by a lack of knowledge of the application of laws required to be enforced; an unwillingness or inability to perform assigned tasks; the failure to conform to work standards established for the personnel's rank, grade or position; **the failure to take appropriate action on the occasion of a crime, disorder, or other condition deserving police action;** or absence without leave including abuse of sick time. In addition to other indicia of unsatisfactory performance, the following will be considered prima facie evidence of unsatisfactory performance: repeated poor evaluations or a written record of repeated infractions of policies, procedures, directives or orders of the Sheriff's Office.

Deputy Action:

- To wit: Dep. R. Finn witnessed a vehicle traveling in the wrong direction, northbound on a southbound ramp, and failed to stop it or call it on the radio even though he had to take evasive action to avoid it. Dep. R. Finn admitted that a vehicle traveling in the wrong direction constituted probable cause for a traffic stop.
- To wit: The medical call on Carlson Ct. was dispatched at 02:04:11, Sgt. Tietje requested a deputy to respond and dispatched logged that deputies were responding at 02:06:20, Dep. R. Finn initiated his emergency response at 02:08:43.
- To wit: Dep. R. Finn was outside of his zone on Laramie Drive on his portable radio when the medical call was dispatched (7 Carlson Ct.) which subsequently caused a delayed response.

Disciplinary Action: According to Flagler County Sheriff's Office General Order 020 Standards of Conduct III (3) (A) (2) (a), Category 9 Violations are punishable per General Order 019 Discipline VI (E) to include all ranges of discipline from written reprimands up to and including termination.

Flagler County Sheriff's Office General Order 019 Discipline VI (E) (4) states:

- In determining an appropriate discipline, supervisors shall consider the severity of the offense, whether the action was malicious, the applicable category, the employee's disciplinary history, the employee's position within the agency (e.g., supervisor), pertinent counseling and/or training received by the employee, extenuating circumstances directly related to the violation and the best interests of the agency.

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.

Comdr. C. Sepe 44
Signature

7/9/18
Date

Sworn to and subscribed before me, the undersigned, this 9 day, July month, year. 2018

Sheri Goipe
Notary



Jack Brshaw 45
Reviewing Supervisor Printed Name

07/09/18
Date

[Signature]
Signature of Reviewing Supervisor