

Case# IA-22-01

Incident: **320.5.11 INTOXICANTS**

(c) Unauthorized possession, use of, or attempting to bring a controlled substance, illegal drug or non-prescribed medication to any work site.

Members shall report for work in an appropriate mental and physical condition. Members are prohibited from purchasing, manufacturing, distributing, dispensing, possessing or using controlled substances or alcohol on office premises or on office time (41 USC § 8103). The lawful possession or use of prescribed medications or over-the-counter remedies is excluded from this prohibition.

Employees involved

, Detentions Deputy

James Smith, Detentions Sergeant

Thomas Lusk, Detentions Deputy

Dustin Dorn, Detentions Deputy

On 01/11/2022 at about 1000 hrs, I was requested by Command Staff to conduct an Internal Investigation into the allegations of the Standards of Conduct. This incident occurred in the County of Archuleta and State of Colorado.

I was given a memo from Command Staff.

The Memo was dated 01/10/2022, from Sergeant Smith to Commander Williams. The memo states the following below.

“ On Saturday 01/08/2022 Deputy _____ sent me a text message asking if she could talk to me which I agreed. She then stated the following “ I don’t want you becoming a Lusk. You’re a better person than that. I know he is giving his hormone medication stuff to other people and I don’t want you getting sick from it”. In response I stated that I don’t do that anyway and ask who he was giving it too. She stated that he had given it too Deputy Dorn and Deputy _____. Along with inmates that are no longer within our facility. She again accused me saying “ I know you have taken it once before”. I again explained that I have not taken it. After that she continued on saying that Deputy Lusk is selling drugs on the black market which is not the first time she has accused him of this. I have tried to find out more information on all this before but she won’t tell me anything else, after that she turned the conversation into how stressed she has been at the jail and with her personal life”.

I received a second Memo from Sergeant [REDACTED]. This Memo was from Deputy Lusk. Subject line shows Deputy [REDACTED] accusing me of black market drug activity. Date 11/11/2022.

"On 1-10-2022 I was in the break room with Sergeant Smith when Deputy [REDACTED] entered and said to me: " You know all the black market drug stuff you're doing? Yeah, you need to stop that. I said I wasn't involved in any kind of black market drug stuff and ask her what she was talking about. She said "So you're not giving any drugs to [REDACTED] ? I have insider information that you're giving drugs to [REDACTED]. I told her again that I'm not involved with drugs, the black market, or anything like that, and that I've never had contact with [REDACTED] outside the jail. "My friend told me that [REDACTED] told her that you're giving him some of your black market drugs, she said. I suggested that neither her, her friend, nor [REDACTED] were credible sources of information as I'm not even seen [REDACTED] outside the jail. I asked her who her friend was and Deputy [REDACTED] said the person wanted to remain anonymous and wouldn't provide that information to either myself or Sergeant Smith. I've been approached separately by several jail deputies over the past few weeks who have told me Deputy [REDACTED] has told them I run a black market drug operation, that I'm mentally unstable, and that I'm not to be trusted. I have asked Deputy [REDACTED] before a number of times to please quit making completely baseless accusations and spreading rumors about me that could negatively impact my life and career. I asked her on this occasion to stop, and then left the break room.

I conducted a non-custodial interview with [REDACTED] at my office. The interview was recorded on my body cam.

I explained to [REDACTED] that I was requested to look into the allegations she has made against Deputy Lusk.

[REDACTED] told me this has been going on for a long and that Lusk was diagnosed with something a long time ago that requires him to take hormones, which he injects in his thigh and also believes that he takes it for pre work out as well. [REDACTED] claims he uses it to balance his hormones out.

[REDACTED] told me that Deputy Dorn, former Deputy [REDACTED] and Sergeant Smith were taking it during an extended period of time. She also said quite a few were taking it both inmates and Deputies. [REDACTED] told me no one is taking it now that she knows of.

I ask [REDACTED] if she ever saw it. [REDACTED] told me that while she was flip flopping between house, with Lusk and Dorn. [REDACTED] told me she was staying with Lusk at the time and was working graveyards. [REDACTED] had gotten back to Lusk' house, went upstairs and changed clothes and went back down stairs and saw Smith inside. She heard Lusk and Smith talking and ask Smith if he was here for his stuff. [REDACTED] ask Lusk if he had a list of people he gives this too. Savannah said Lusk smiled at her and asked why she was so invested in this. I ask where these conversations took place, she told me the breakroom inside the jail.

[REDACTED] heard Smith say yes and saw Lusk walking towards the bathroom, reached in the bathroom and grabbed a needle and ask Smith if he needed it to. [REDACTED] said they both looking at her and

joking said not to say anything because it could be a felony to give medicine away. [redacted] never saw Smith take anything.

[redacted] told me that she and Lusk had been in a relationship outside of work. She said she can't remember what it was called, but that Lusk was taking hormone injections in his thigh. [redacted] told me their relationship lasted about three months.

According to [redacted], she was told by Sergeant [redacted] to tell them to stop. [redacted] does bounce around a lot during the interview. [redacted] showed me text messages from Dorn asking if he is still taking it. Dorn replies that he only took it a few times, but none of the texts specify what anyone is taking.

[redacted] then goes on to say that on or around Thanksgiving day Lusk allegedly showed up to the jail drunk. [redacted] said that Lusk was hanging out with Smith at E Pod. [redacted] claims that she had told Lusk that he can't be heard. [redacted] said Lusk came into workout and that she saw him in the breakroom with a needle in his thigh. According to [redacted] that was the only time she saw Lusk do that. I ask where Lusk lived. [redacted] could not give me an address, but explained by the details given it was somewhere down [redacted]. [redacted] claims other times where Lusk would take inmates to the gym to clean and when they came out there would be complete silence.

[redacted] said that Lusk had stopped taking it because he didn't need it anymore and that Lusk becomes more aggressive when he is on it. [redacted] then goes into Lusk and [redacted] dating and that Lusk is a supervisor. [redacted] continues to say that she has never witnessed anyone use.

I asked [redacted] about the conversation and text messages between her and Sergeant Smith. The text messages are attached to this file. [redacted] states that she doesn't want Smith becoming Lusk and that he's a better person, she knows that Lusk has been giving his Hormone medication to other people. Smith states he doesn't do that anyway and ask who it's been given to. [redacted] claims Dorn and [redacted] were both taking it as well. Smith asks if there were other people taking it. [redacted] responds back, I'm pretty sure [redacted], [redacted] and [redacted] were taking it as well. Smith responds back that he doesn't take it and that he is his own person. [redacted] told me that they would all deny it.

Interview with Sergeant Smith

I interviewed Sergeant Smith next. I showed Sergeant Smith a copy of the memo I was given and ask if he wrote it. Sergeant Smith told me he did. Smith showed me text messages and said [redacted] wrote to him telling him to not be a Lusk. Sergeant Smith also said that [redacted] accused him of taking some Hormone medications. Sergeant Smith said he was not into that. [redacted] claims that she saw Sergeant Smith take. Smith denies it. Sergeant Smith then said that he, Lusk and [redacted] were all in the breakroom in the jail and [redacted] stated to Lusk, you need to stop selling your drugs on the black market. Lusk told her that he doesn't sell drugs. Sergeant Smith told me that Lusk and [redacted] were in a

relationship for a short time, but it did not work out. Sergeant Smith said that things calm down for a while. Sergeant Smith believes now that Lusk is dating . is the reason issues are coming back up. Sergeant Smith told me . has tried to throw Lusk under the bus several times and that certain people are the golden children of the jail. I ask about her job performance. Sergeant Smith said it's good when she doesn't get involved in the drama.

Interview with Dustin Dorn on 01/12/22.

During my interview with Dorn, I ask him if he knew what was going on. Dorn told me he had just found out about it from the Commander. Dorn said that he used to date . Dorn goes on to say that Lusk was helping him out. Dorn told me that Lusk would give him ideas on certain foods to eat and pre workout powder that you can purchase on-line. Dorn told me he has never taken any hormones or has seen any hormones. Dorn told me that he was taking some supplements, but didn't like them and quit taking them. Dorn told me there was drama going on about other people but didn't pay attention to it.

Interview with Thomas Lusk on 01/14/22

I interviewed Lusk and ask him about the memo he had sent to Sergeant and Sergeant Smith. Lusk told me that had been accusing him of selling drugs on the black market. Lusk told me that he has never done that. I ask Lusk about hormones. Lusk told me that a long time ago he had a prescription for medication similar to hormones because of his infertility issues. Lusk said he hasn't taken that in quite a while because he does not what children anytime soon. Lusk says there were other rumors going around that he had gotten pregnant and raped her. Lusk tells me that she has a cycle of being nice and then being vindictive.

Lusk told me that she tried to cause problems between him and inmate . According to Lusk it was like she was trying to have take her side and get into with Lusk. I asked about Documentation with the incident with . Lusk told me there was and it was in November. Lusk told me from what he gathered was that was trying to get to hurt Lusk.

I brought the conversation back to the "drugs". Lusk told me he does take several supplement. Lusk told me he has them in a small baggie that consist of multi vitamins and Tylenol. Lusk told me that knows this and also knows if he wants to have kids he has to take the hormones. Lusk said he does take work out powder when he works out. I ask Lusk about his relationship with Smith. Lusk told me they hang out on occasions, but not every day. I ask Lusk about relationships with former inmates. Lusk told me he has never hung out with inmates. Lusk questioned source for information and told him that person in anonymous. I ask if he had lifting partners at the gym. Lusk told me he lifts by himself and that as far as he knows none of them goes to his gym. Lusk told me at one point he

and [redacted] had an on again off again relationship but it didn't work out. Lusk said he is dating [redacted] and they have been dating close to a year now.

Interview with Sergeant [redacted]

Sergeant [redacted] informed me this was the only allegations he knows about. The allegations consisted of Deputy Lusk selling drugs on the black market. Sergeant [redacted] told me the first time he heard about it, Deputy [redacted] ask if she could speak with him. Sergeant [redacted] was informed that Deputy Smith and others were doing hormones. She also complained about Deputy Lusk having anger issues and that he would sometimes yell at her. Sergeant [redacted] told me that Deputy [redacted] did not have any other information to confirm the allegations. I ask Sergeant [redacted] if anyone else in the jail had said anything about it. He said no. Sergeant [redacted] told me that as far as he knows this was never brought up again. Sergeant [redacted] told me there has been no evidence found to support the claim.

Sergeant [redacted] had heard that Lusk and [redacted] had become a "Thing" meaning in some type of a relationship, by the time he heard it was true they were no longer a thing. Sergeant [redacted] told me that a few months after the breakup [redacted] would say that Lusk is doing this and that and Lusk is being mean. [redacted] also accused Lusk of being Bipolar at one point. Sergeant [redacted] says this happens every couple of months and would go on for about a year and a half. Sergeant [redacted] had spoken with the Commander and agreed to put her on a modified shift.

Sergeant [redacted] told me there was another time where he heard there was a problem with Deputy [redacted] because she was dating Lusk and that supposedly Lusk was still in love with Deputy [redacted]. Sergeant [redacted] had looked into a few minor complaints Deputy [redacted] brought to the table, but there was no evidence or her stories became inconsistent. Sergeant [redacted] and the Commander did look into an incident where she was claiming an argument between [redacted] and Lusk in the breakroom. He said that it did not arise to a criminal level, but could have been handle differently. Sergeant [redacted] told me Deputy Lusk was working on some stuff for PPCT and that [redacted] had come into the office, Deputy Lusk had ask Deputy [redacted] to leave so he could concentrate on his work. According to Sergeant [redacted], Deputy [redacted] continued to instigate Deputy Lusk and that he had raised his voice to tell her to leave. Deputy [redacted] was accusing him of acting differently around the Sergeants and the Commander.

Sergeant [redacted] received a written statement from inmate [redacted] that Deputy [redacted] was attempting to play [redacted] against Deputy Lusk. Inmate [redacted] indicated that he has known the [redacted] family for a long time and believed Deputy [redacted]. Sergeant [redacted] indicated that [redacted] was supposedly set up to do something to Deputy Lusk, but never followed through with it.

Sergeant [redacted] confirmed the only complaint Deputy Lusk has ever filed, was Deputy [redacted] accusing him doing stuff he has never done, like selling drugs. Sergeant [redacted] told me Deputy [redacted] is consistently telling him that Deputy Lusk in mean to her and yells at her.

Interview with [redacted] the jail Nurse on 01/26/2022

I spoke with [redacted]. She informed me that all the inmates get medical care and she has not noticed anything unusual about the weight gain of inmates. She has never seen or heard of the inmates "juicing" while incarcerated.

Interview with [redacted] on 01/27/2022

When I interviewed [redacted] he told me he heard rumors about the jail before he got hired. [redacted] claims that he knows how people get when having a substance abuse problems. [redacted] said he saw Deputy Lusk get big in a short period of time. According to [redacted] he noticed Deputy Lusk get Muscular big in a short period. [redacted] claims he has noticed that some of the inmates working out more and getting bigger.

[redacted] does state that he never saw any type of transactions from the inmates or Deputy Lusk. Deputy Lusk worked in the control room and would witness Deputy Lusk and his girlfriend Deputy [redacted] disappear into the breakroom on several occasions. [redacted] feels that some of the inmates have gotten ahold of his shit [redacted] questions why Deputy Lusk would go out to the lobby to use the bathroom a lot. A note was given to me that was found in the control room. The stated that he heard the use of steroids was running in the jail from outside sources. [redacted] read the note and did claim it was his. I ask [redacted] if he had ever worked in a jail or jail setting. [redacted] said he has never worked in a jail before.

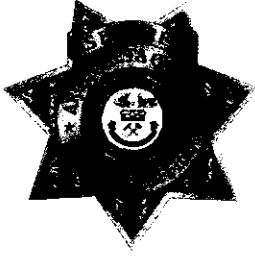
I ask [redacted] if there were issues between him and Deputy [redacted]. [redacted] refers to Deputy [redacted] as a badge heavy know it all. [redacted] claims that Deputy [redacted] can be vicious and would try to push him around. [redacted] claims that Deputy [redacted] would tell inmates personal stuff about her life. [redacted] was talking to Deputy [redacted] about wondering how the inmates are getting so big.

[redacted] said that he did not know if the person making complaints against Deputy Lusk has any facts or if it's because they are no longer in a relationship. [redacted] claims that he knows when someone is struggling and has an addiction, and prays that it's not true. I ask [redacted] if he questioned Deputy Lusk about it. [redacted] ask Deputy Lusk if he was juicing up. Deputy Lusk just laughed. [redacted] claims that he is trusting his gut, but has never seen anything.

In conclusion of this investigation I have not found any evidence, circumstantial or other wise to support the claim that Deputy Lusk has been involved in the selling of illegal drugs on the black market. I have no evidence to support the claim that any illegal steroids have been or are being used, by either inmates or Deputies alike.


Interviews were recorded by body cam.

Jason Hibbert
Detective



Archuleta County Sheriff's Office

Memorandum

To: Dustin Dorn
From: Undersheriff Le Roux 
Date: February 17, 2022
Subject: IA-22-002

You have been the focus of the above referenced Internal Affairs Investigation. The Internal Investigation has identified that you made false and misleading statements in violation of the Archuleta County Detention Facility Policy Manual for the below listed policy:

109.5.8 (a) Performance – Sustained

Failure to disclose or misrepresenting material facts, or making any false or misleading statement on any application, examination form, or other official document, report or form, or during the course of any work-related investigation.

After reviewing the totality of the investigation and the circumstances, it is my determination that the above listed policy violation is **sustained**, due to the evidence supporting the claim.

After reviewing the information contained in this Internal Investigation and taking in the totality of the circumstances, my decision is that your employment with the Archuleta County Sheriff's Office is terminated effective immediately.

Per Archuleta County Sheriff's Office Policy 1010.10.1, you have the right to appeal my decision to the Sheriff. Should you choose to appeal my decision, it must be made in writing to the Sheriff within five days of receipt of this notice or my decision is final.



Archuleta County Sheriff's Office

To: Employee File (Dustin Dorn)

From: Commander Ed Williams

Date: February 7, 2022

RE: Written Warning

On today's date, Deputy Dorn was counseled about an incident while he was on a transport to Idaho. Deputy Dorn was observed by a Deputy from another agency speeding while driving an Archuleta County marked patrol unit.

It was explained to Deputy Dorn that he is to hold himself to a higher standard as he is a public servant. Deputy Dorn understood what is expected of him moving forward.



Archuleta County Sheriff's Office

Memorandum

To: Thomas Lusk

From: Undersheriff Le Roux *MLB*

Date: February 17, 2022

Subject: IA-22-002

You have been the focus of the above referenced Internal Affairs Investigation. The Internal Investigation has identified that you made false statements in violation of the Archuleta County Detention Facility Policy Manual for the below listed policy:

109.5.8 (a) Performance – Sustained

Failure to disclose or misrepresenting material facts, or making any false or misleading statement on any application, examination form, or other official document, report or form, or during the course of any work-related investigation.

After reviewing the totality of the investigation and the circumstances, it is my determination that the above listed policy violation is **sustained**, due to the evidence supporting the claim.

After reviewing the information contained in this Internal Investigation and taking in the totality of the circumstances, my decision is that your employment with the Archuleta County Sheriff's Office is terminated effective immediately.

Per Archuleta County Sheriff's Office Policy 1010.10.1, you have the right to appeal my decision to the Sheriff. Should you choose to appeal my decision, it must be made in writing to the Sheriff within five days of receipt of this notice or my decision is final.



Archuleta County Sheriff's Office

February 25, 2022

Thomas Lusk
85 Harman Park Drive
Pagosa Springs, CO 81147

Mr. Lusk,

On February 17, 2022, you were given a "Notice of Termination" by Undersheriff Le Roux. Because you were relieved of your duties, you had the right to appeal the final decision to the Sheriff. In choosing to do so, you provided me, Sheriff Valdez, with a written request for an appeal on February 22, 2022.

Colorado State Statute, 30-10-506 provides that: "Each Sheriff may appoint as many Deputies as the Sheriff may think proper and may revoke such appointments at will." Colorado 30-10-506 also provides that "before revoking an appointment of a Deputy, the Sheriff shall notify the deputy of the reason for the proposed revocation and shall give the Deputy an opportunity to be heard by the Sheriff". This statute is incorporated into this policy and is designed to meet the requirements of the Colorado State Statute; however, the Statute regarding terminations will supersede both the Archuleta County Personnel Manual and the Archuleta County Sheriff's manuals.

After Detective George Barter conducted a complete Internal Investigation, Undersheriff Le Roux provided me with his findings. They are as follows:

SUSTAINED- Detention Officer Lusk made false statements in violation of Detention Facility Policy manual 109.5.8(a) Performance - Failure to disclose or misrepresenting material facts, or making any false or misleading statements on any application, examination form, or other official document, report or form, or during the course of any work-related investigation.

On February 22, 2023, I met with you at 85 Harman Park Drive in which you were given an opportunity to argue your termination and bring forth any additional evidence that would overturn the allegations that were brought forth against you.

During the interview, you explained that approximately three years ago you met with a physician in reference to having a very low energy level. During your doctor visit, they conducted a "hormone panel", in order to see where your hormone levels were. Due to your hormone levels not being normal, you were prescribed a "specialty" prescription in which you would administer to yourself, via injections. You added that you pay approximately \$125 for each prescription.

When you began working at the Archuleta County Detention Facility you spoke with other employees, specifically DO Dorn and DO Smith about their energy levels. You said you told them about the "hormone panel" and how the prescription helped your energy level. You said you gave them some of your doses, so they could try them out. Your intentions were to allow them to try the injections and if they helped, they could go get their own prescription.



Archuleta County Sheriff's Office

You stated you never sold them and you never had a "black market ring". You were only trying to "help them out".

You stated that during your first interview with Detective Hibbert, you wished you had been completely honest. You told me you were untruthful with Detective Hibbert, because you felt responsible for getting the others into this situation. You admitted to withholding information during the investigation, but did finally admit to Detective Barter, your role in supplying the hormone prescription and needles to DO Smith and DO Dorn, with the intentions of "helping them out" and that it "spiraled into something more".

While reading your appeal letter you made the following written statement:

I have no one to blame but myself for the outcome. I fucked up...big time. I wasn't truthful in the beginning and by doing so made it so much worse in the end. I'm truly sorry for that, sir.

Conclusion:

Based on your appeal, my findings determined there **is not** enough evidence to "overturn" the decision made by Undersheriff Le Roux. There is sufficient evidence, based on my findings, to agree that you did violate Archuleta County Sheriff's Office Detention Facility Policy manual 109.5.8(a) Performance - Failure to disclose or misrepresenting material facts, or making any false or misleading statements on any application, examination form, or other official document, report or form, or during the course of any work-related investigation.

Therefore, effective immediately, your employment with the Archuleta County Sheriff's Office will be terminated.

A copy of the findings will be given to the Archuleta County Department of Human Services and a copy will be placed in to your personnel file.

Respectfully,

A handwritten signature in black ink that reads "Richard Valdez".

Richard Valdez
Sheriff Archuleta County

cc: Personnel file
Human Resources



Archuleta County Sheriff's Office

February 25, 2022

James Smith
85 Harman Park Drive
Pagosa Springs, CO 81147

Mr. Smith,

On February 17, 2022, you were given a "Notice of Termination" by Undersheriff Le Roux. Because you were relieved of your duties, you had the right to appeal the final decision to the Sheriff. In choosing to do so, you provided me, Sheriff Valdez, with a written request for an appeal on February 18, 2022.

Colorado State Statute, 30-10-506 provides that: "Each Sheriff may appoint as many Deputies as the Sheriff may think proper and may revoke such appointments at will." Colorado 30-10-506 also provides that "before revoking an appointment of a Deputy, the Sheriff shall notify the deputy of the reason for the proposed revocation and shall give the Deputy an opportunity to be heard by the Sheriff". This statute is incorporated into this policy and is designed to meet the requirements of the Colorado State Statute; however, the Statute regarding terminations will supersede both the Archuleta County Personnel Manual and the Archuleta County Sheriff's manuals.

After Detective George Barter conducted a complete Internal Investigation, Undersheriff Le Roux provided me with his findings. They are as follows:

SUSTAINED- Detention Officer Smith made false statements during a work related investigation in violation of Detention Facility Policy manual 109.5.8(a) Performance - Failure to disclose or misrepresenting material facts, or making any false or misleading statements on any application, examination form, or other official document, report or form, or during the course of any work-related investigation.

On February 22, 2022, I met with you at 85 Harman Park Drive in which you were given an opportunity to argue your termination and bring forth any additional evidence that would overturn the allegations that were brought forth against you.

During that interview you told me you did not want to make excuses and that you made the wrong decision. You stated you made a false statement out of fear, but wanted to make it right and that it would not happen again. You further added that you would not come back through my office again.



Archuleta County Sheriff's Office

During the interview, I asked you three separate questions:

At the time of the incident, were you the "interim" Sgt. – you told me no. (Note: James Smith was not the interim Sergeant at the time of the actual event, but he was the interim Sgt. at the time of the investigation/interviews).

On February 8, 2022 - you told Detective Barter that you did not receive any controlled substances from DO Lusk – that you received needles to give your dog a vaccination. You admitted to telling Detective Barter that statement.

On February 15, 2022 – You told Detective Barter that you were untruthful on February 8, 2022 and that you did, in fact, receive a vial of clear liquid from DO Lusk in which you personally injected into your body approximately four or five times. You admitted to me, that you were untruthful to Detective Barter during your February 8, 2022 interview.

Conclusion:

Based on your appeal, my findings determined there **is not** enough evidence to "overturn" the decision made by Undersheriff Le Roux. There is sufficient evidence, based on my findings, to agree that you did violate Archuleta County Sheriff's Office Detention Facility Policy manual 109.5.8(a) Performance - Failure to disclose or misrepresenting material facts, or making any false or misleading statements on any application, examination form, or other official document, report or form, or during the course of any work-related investigation.

Therefore, effective immediately, your employment with the Archuleta County Sheriff's Office will be terminated.

A copy of the findings will be given to the Archuleta County Department of Human Services and a copy will be placed in to your personnel file.

Respectfully,

A handwritten signature in cursive script that reads "Richard Valdez".

Richard Valdez
Sheriff Archuleta County

cc: Personnel file
Human Resources

Brian Reis

ORIGIN:

Deputy Dylaina

COMPLAINANT: - INFORMAL

Name: Deputy

Address:

Phone:

PRESENT AT INTERVIEW:

Name: NONE

Address:

Phone:

EMPLOYEE(S) INVOLVED IN COMPLAINT:

Deputy

Deputy

Deputy Brian Reis

ASSOCIATED CASE NUMBER:

S20000215

COMPLAINT:

320.5.8 PERFORMANCE

Being untruthful or knowingly making false, misleading or malicious statements that are reasonably calculated to harm the reputation, authority or official standing of this office or its members.

INVESTIGATION:

On 04/16/2020, at about 1900 Hrs, I was made aware of a situation when Deputy [redacted] was asked by Sr. Deputy Brian Reis via the radio if he had attempted to serve [redacted] a trespass warning at [redacted] in Arboles. Deputy [redacted] replied that the lights were all off at the residence when he went by. This incident occurred on 04/01/2020. I had found out that there may have been an honesty and integrity issue involving this incident and started an administrative inquiry.

I contacted Sr. Deputy Reis and Deputy [redacted] for statements. Deputy [redacted] was with Deputy [redacted] while in Arboles on 04/01/2020 during the radio traffic.

Sr. Deputy Reis told me he didn't remember too much about the conversation over the radio or on the phone shortly after. I was with Sr. Deputy Reis during this time and I didn't remember much about it either because it was a task that Sr. Deputy Reis had assigned Deputy [redacted] and I was preoccupied with other tasks.

During my investigation, Sr. Deputy Reis told me he remembered the phone call and told Deputy [redacted] to just take care of the trespass serve on his next shift. Sr. Deputy Reis told me that he felt as if the situation was just a matter of confusion.

Deputy [redacted] provided a written statement at my request. In the statement, she describes the night of 04/01/2020 when she was with Deputy [redacted] in Arboles. She stated that after clearing a traffic stop in Arboles, she and Deputy [redacted] went directly to the boat storage area where they discussed the traffic stop. During the talk, Sr. Deputy Reis contacted Deputy [redacted] via the radio and asked if he had served the trespass warning to which, Deputy [redacted] replied he had not, the lights were off when he went by.

According to Deputy [redacted]; the Abrell residence cannot be seen from the roadway and Deputy [redacted] did not go anywhere else besides the traffic stop and the boat storage. Deputy [redacted] stated that after Deputy [redacted] got off the phone, he felt bad about giving the false information over the radio and said he was going to call Sr. Deputy Reis and tell him the truth. Deputy [redacted] said she worked with Deputy [redacted] a on 04/15/2020 and asked how much trouble he got into after lying. Deputy [redacted] told her that Sr. Deputy Reis told him it was no big deal and to make sure the trespass warning got served. She asked him several times if he was in trouble and he replied "no" each time. Deputy [redacted] contacted Sr. Deputy Reis and asked if Deputy [redacted] had explained the situation and about lying to him. Sr. Deputy Reis told her he had not.

On 04/23/2020, I interviewed Deputy [redacted] at the Sheriff's Office after reading him Garrity warning. I confronted him about the issue and he told me he was afraid of getting in trouble for not having enough

time to serve the trespass warning because he has been in trouble for many other issues lately. He also said his mind was in a different place because he was still shaken up about the traffic stop and he was still angry about it. He admitted what he said over the radio didn't sound truthful and felt bad about it, so he called Sr. Deputy Reis over the phone and clarified. I asked him to see a time stamp on his phone and he was able to provide two calls to Sr. Deputy Reis. One didn't have a time stamp but was shortly after the radio transmission based on the second call which was around 0000 Hrs on 04/02/2020.

I explained to Deputy [redacted] that he would not have been in trouble based on not having enough time to attempt the serve. We talked about how lying or even the perception of dishonesty could get him terminated and left without a career in law enforcement.

Deputy [redacted] was clearly ashamed of his actions and told me it would not happen again. He stated multiple times that he did feel bad about telling Sr. Deputy Reis what could have been perceived as false information over the radio. He also stated the reason he didn't go to the residence was because it was very late by the time he was finished with the traffic stop. Deputy [redacted] told me multiple times that he was able to see there were no lights on at the residence when he was traveling on the highway.

During my investigation, it was learned that Deputy [redacted] had truthfully stated that he DID NOT attempt the trespass serve but did tell Sr. Deputy Reis over the radio that all the lights were off at the residence when it was believed he did not observe whether the lights were in fact off because of the location of the residence in relation to the highway. Deputy Bracken was truthful as far as saying he didn't attempt the serve. The false information about the lights on or off was to be investigated by me at a later time.

On 04/29/20, I was provided a dispatch recording from 04/02/20, at about 0030 Hrs. In the recording, you can hear Deputy Reis say "109, 105" to which Deputy [redacted] replied "go ahead." Deputy Reis asked "did you get that trespass warning served yet by chance?" Deputy [redacted] responded "Yeah, there was no lights on when I went by there" and shortly after, Deputy [redacted] said "I'll give you a call."

Through this investigation, it was found out that Deputy [redacted] did call Deputy Reis over the phone to give a more detailed response to Deputy Reis' question over the radio. The question still remaining was if Deputy [redacted] was untruthful about being able to see if the lights were on from Highway 151.

On 05/28/20, in the afternoon, I went to Arboles for an unrelated issue. After completing the call, I went to Lake View. When I approached the driveway of the residence, I recalled being at the same residence in the past when a friend/coworker lived there about 10 years ago. The residence is a red building on stilts on the hillside with a steep driveway. When at the residence, Highway 151 can clearly

be seen. After leaving the residence, I went to Highway 151 and CR 973. The residence on the hillside can be clearly seen from the roadway and lights at night would quite possibly be visible.

SUMMARY:

Through this investigation, it was found out that Deputy [redacted] did call Deputy Reis over the phone to give a more detailed response to Deputy Reis' question over the radio. The dispatch transmissions and Deputy [redacted] written statement would seem parallel to the statements made in Deputy [redacted] s interview. Deputy [redacted] was not deceptive in the interview with me and he was counseled as to the importance of accurate information provided to other deputies, supervisors and dispatch over the phone and radio. After he told me that he was able to see the lights off at the residence, the information and location of the residence was verified.

FINDINGS: It would sound like Deputy [redacted] was untruthful over the radio and about seeing the lights off at the residence but, with further investigation, Deputy [redacted] made himself misunderstood at the time which is not uncommon for him on a regular basis. After further investigation, the incident was cleared up and his radio traffic was cleared up. There is no evidence Deputy [redacted] was untruthful about seeing the lights were off at the residence and/or going to the residence to attempt the trespass warning.

My finding for this complaint is **NOT SUSTAINED**

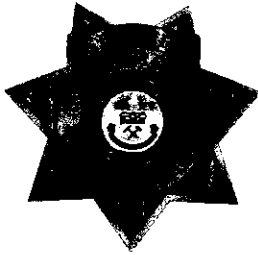
RECOMMENDATIONS:

My recommendation for this complaint is another counseling for Deputy [redacted] and a discussion about being more clear over the phone, in person and radio when speaking with the community, peers and supervisors.

SIGNATURE and DATE:

M. SINDELAR R184 5/29/20





Archuleta County Sheriff's Office

Memorandum

To: Brian Reis

From: Undersheriff Le Roux

A handwritten signature in black ink, appearing to be 'MLR', written over the printed name 'Undersheriff Le Roux'.

Date: February 28, 2022

Subject: IA-22-003

You have been the focus of the above referenced Internal Affairs Investigation. The Internal Investigation was for the potential violation of Archuleta County Sheriff's Office Policy Manual for the below listed policies:

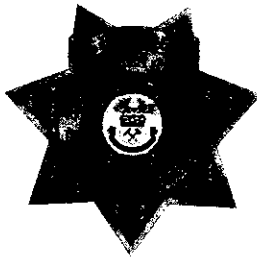
300.3 Use of Force – Unfounded

Deputies shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the deputy at the time of the event to accomplish a legitimate law enforcement purpose.

The reasonableness of force will be judged from the perspective of a reasonable deputy on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that deputies are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain, and rapidly evolving.

Given that no policy can realistically predict every possible situation a deputy might encounter, deputies are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident.

It is also recognized that circumstances may arise in which deputies reasonably believe that it would be impractical or ineffective to use any of the tools, weapons, or methods provided by this office. Deputies may find it



Archuleta County Sheriff's Office

more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires a deputy to retreat or be exposed to possible physical injury before applying reasonable force.

320.5.8 (i) Performance – Sustained

Any act on - or off-duty that brings discredit to this office.

320.5.9 (m) Conduct – Sustained

Any other on - or off-duty conduct which any member knows or reasonably should know is unbecoming a member of this office, is contrary to good order, efficiency or morale, or tends to reflect unfavorably upon this office or its members.

After reviewing the information contained in this Internal Investigation and taking into account the totality of the circumstances, it is my decision to offer you the opportunity to tender your resignation from Archuleta County Sheriff's Office. Should you choose to accept this offer, this memorandum will serve as acceptance of the offer, effective immediately.

Per Archuleta County Sheriff's Office Policy 1010.10.1, you have the right to appeal my decision to the Sheriff. Should you choose to appeal my decision, it must be made in writing to the Sheriff within five days of receipt of this notice or my decision is final.