

Effingham County Sheriff's Office

Internal Affairs Investigation

Case # 2018-001

Brooklet Police Department

On February 22, 2018, this investigator received a written complaint from Interim Chief Brian Mundy of Brooklet Police Department to conduct an Internal Investigation into Officer Duttons actions at the Clyde's Convenience Store and the subsequent traffic stop conducted by Sgt. Baker to determine if any criminal, civil or department violations had occurred.

On February 23, 2018, this investigator met with Chief Mundy at the Brooklet Police Department and requested a copy of Brooklet Police Departments Policy. Chief Mundy provided me with a disc in a protective case labeled SOP. Upon opening and reviewing the contents of the disc, I noted that it was dated May 28, 2007. I asked Chief Mundy if this was the most current policy? Chief Mundy contacted City Councilman Bill Griffin and the City Attorney who both confirmed that it is the most current. I then asked Chief Mundy for a copy of the Incident Report for the event, POST records for both officers, copies of both officers' personnel files, a copy of their Oath of Office, the signed form where both officers were issued a copy of the Policy and Procedure Manual, the video footage from the body cam, and anything documenting the officers FTO training. As Chief Mundy began retrieving the requested items, I began reviewing Brooklet PD's SOPs.

Chief Mundy provided me with a copy of the Incident Report, Brooklet PD case number 2018-01-0165, and it is included in this report.

Chief Mundy logged on to the POST website and printed me a copy of both officers POST records, and they are included in this report.

Chief Mundy provided me with a certified copy of both officers personnel files, and they are included in this report.

Chief Mundy was unable to locate an Oath of Office for either officer for the City of Brooklet, but did locate an Oath of Office for the Bulloch County Sheriff's Office when Sheriff Noel Brown was elected.

Chief Mundy was unable to locate anything documenting that either officer had signed confirming receipt of a Policy and Procedure Manual. Chief Mundy did tell me that Sgt. Baker is the one who provided the disc labeled SOP.

Chief Mundy provided me with a blue flash drive containing another copy of the SOP and two video's. One video of the traffic stop initiated by Sgt. Baker and one video of Chief Meyers incident in City Hall with Mrs. Cindy B. Lee. The flash drive included with this report.

Chief Mundy was unable to locate any documentation that either officer had ever completed an FTO program with the Brooklet Police Department.

I went to the Clyde's to meet with the manager to obtain a copy of any video of the incident that occurred in the parking lot out at the gas pumps. The clerk told me that Bobby, the owner, was out of town and would be back Monday. The clerk provided me with Bobby's cell number. I contacted Bobby and he explained that he had the video saved and would have it on a disc for me first of next week.

Upon reviewing the officers POST records, I noted that Sgt. Baker had been terminated from Hinesville PD on March 14, 2001. I contacted Chief Kirkendall of the Hinesville Police Department and inquired into the events that led up to Sgt. Bakers termination, to determine what the circumstances were. Chief Kirkendall said that with an open records request, he would send me the complete IA. I typed an open records request and faxed it to Chief Kirkendall.

I reviewed the video of the traffic stop. Sgt. Baker approaches the vehicle asking Mrs. Lee what seems to be the problem. Sgt. Baker explains how the teenagers in the other car violated the law with not having children in appropriate car seats, but never explained any violation of law committed by Mrs. Lee. When Mrs. Lee asked why did you pull me over, Sgt. Baker said, "because you were copping an attitude with one of my officers." Mrs. Lee asked a second time, is there a reason you pulled me over? Sgt. Baker said because you were having an attitude. Mrs. Lee said, if you are not pulling me over for a reason then I am leaving. Sgt. Baker said, "Ok, pull away and you will be charged." Seconds after Sgt. Baker made the statement about charging her if she pulls away, his camera stops recording.

I then pulled up Mrs. Lee's video that she posted to FaceBook and reviewed it. It starts after Sgt. Baker's video as you can see in Sgt. Bakers video when Mrs. Lee gets her phone and starts recording but it goes past the point where Sgt. Bakers video stops. Mrs. Lee asks am I getting a ticket, am I pulled over for any certain reason or may I go and Sgt. Baker said I suggest you get a car seat for the children when they are in the other car.

On February 28, 2018, I met with Bobby, the manager of Clyde's. Bobby provided me with a disc of the video. The video is a motion sensor camera head inside the store facing out towards the pumps. The cameras main function is to capture facial images of persons entering the store. The video doesn't show much other than Dutton's vehicle at the pumps and a small car pulling up to another pump. It jumps about two minutes in time and then shows Dutton pull his truck into a parking spot in front of the store. There is no sound.

I contacted Chief Mundy and asked who I need to contact at Bulloch County to get the CAD sheets and recordings of the traffic stop. Chief Mundy advised me that he would get with Bulloch 911 and Bulloch Sheriff's Office and obtain the information for me. Several hours later, Chief Mundy called me back and said that there is no record at Bulloch 911 or Bulloch Sheriff's Office on the traffic stop.

I contacted Keith Barber's office and requested an interview with Mrs. Lee. We set up an interview on March 13, 2018.

On March 5, 2018, Chief Mundy provided me with a formal, written complaint from Mrs. Cindy B. Lee on Officer Dutton and Sgt. Baker, and they are included in this report.

On March 12, 2018, I received the Internal Affairs report from Hinesville Police Department and it is included in this report.

On March 13, 2018, I met with Mrs. Lee and her attorney Mr. Keith Barber at Mr. Barber's Office. The interview was recorded. This is a summary of the recorded interview. Mrs. Lee explained why the teenagers had the kids in the car and was meeting her at the Clyde's Market. Lee stated that she noticed the black truck at the pumps when she pulled up to get gas while she was waiting on the kids to show up. Lee stated that she noticed a car pull up in front of her car but did not realize that her niece was in that car to start with. Lee stated that she noticed her niece getting out of the passenger side with one of the children and I heard Dutton say don't you think these kids should be in car seats. And I said yes sir, they should be, I got car seats right here for them and he was like are you being a smart ass and I said no, I got car seats right here for them. I walk around the car and get the kids out and put them in my car and he just stands there. Then he walks back to the back door on the drivers side and proceeds to say ya'll think this shits fucking funny, to the 14 year old boys in the back seat. I was like dude what is your problem, what are you even talking to them for, they had nothing to do with this. Lee said that's when Dutton said, I know the law, I am the law. And that's when he showed his badge and made some comment about you are going to regret that or something and I am going to make a phone call. He pulled into a parking space and got out so I could see him on the phone. Mrs. Lee then tells me about the traffic stop. The traffic stop is recorded separately. This investigator asked, during the conversation at the store, did you get loud, boisterous, did you curse? Lee said I got loud as he got loud but I never cursed.

I met with Sgt. Baker at the Brooklet Police Department. The interview was recorded. This is a summary of the recorded interview. This investigator explained the reason for the interview. This investigator said so tell me what happened. Sgt. Baker said that he saw the car that Dutton called me on, I did not see the children, but I saw all the teenagers, which is a class D violation Dutton told me that a woman grabbed the two kids and put them in her car and he didn't know if the woman had put them in safety seats in her car, that she just grabbed them and left, after they got into their little confrontation. So I went and found the vehicle, pulled the vehicle over, I walked up calm, cool and collected and told her that we were concerned about the safety of the kids because of the child safety restraints. And that's when everything went to hell. This investigator asked what did he tell you when he called you? Sgt. Baker said, that Dutton told him that he saw the six kids and two juveniles in the car and that there was a juvenile under the age of six in lap of the front passenger and a juvenile under the age of six in the lap of a rear passenger, whenever I saw them at the stop sign, I didn't see those two because they were small, and he told me that he got into an altercation with a woman at the gas station and that she got the two kids, put them in her car and left, but he didn't know if they were in child safety seats. This investigator asked, did he tell you what happened with the verbal altercation? Sgt. Baker said, he didn't tell me that until after the traffic stop. He just said that the woman had an attitude with

him whenever he tried to explain about the kids not being in safety seats. Sgt. Baker explains all the charges that could have been on the teenage driver. This investigator asked, do ya'll have an FTO program here? Sgt. Baker said no. This investigator asked, did ya'll ever take an Oath of Office? Sgt. Baker said yes. This investigator asked, when you initiated the traffic stop, did you call that in? Sgt. Baker said, no. This investigator asked, is that common practice? Sgt. Baker said, no, I was just going to go find out about the safety of the kids, I wasn't really going to do anything to her. This investigator started to ask about the body camera stopping and Sgt. Baker interrupted me saying, there is a flaw in the camera, I had to call tech support people and that file was corrupted and they had to get in there and recover the video. Sgt. Baker then takes me to his office and shows me the file and the other corrupt files and his Oath of Office.

I met with Officer Dutton at the Brooklet Police Department. The interview was recorded. This is a summary of the recorded interview. This investigator explained the reason for the interview. This investigator asked, what kind of FTO program does Brooklet have? Dutton said I have not been through and FTO program here. This investigator asked, have you taken an Oath of Office for Brooklet? Dutton said, no. This investigator said, so tell me about the incident at Clydes. Dutton said, I was just getting gas and saw a vehicle pull up on my right side, I noticed what appeared to be a bunch of teenagers, but what caught my attention was what appeared to be two elementary kids sitting in the laps of these teenagers. I just walked up to the vehicle, pulled my shirt up like that, and said don't you think those kids need to be in a seat belt or something. Next thing I know the woman, I know now as Cindy Lee comes over and she did you know basically started like yelling but kind of aggressively towards the situation saying yes they should be, but with me what I do if somebody starts running their mouth I just tune them out. If they start saying anything and I start listening, I might get mad or something, you know. I just start tuning people out. So what she said between all of that, I don't know. I know I was just standing there just watching her get those kids out and I seen one kid start laughing and I was like, find anything funny? Me, I like to see something funny you know, next thing I know she started smarting off at me and I was like um ok and about that time I was finished getting gas and I pulled into a parking lot and called Baker, I was like hey, this is what's going on, and in between all of that I heard her yelling at me just cause you got a badge doesn't mean you are special or all that. I was just telling Baker, this is what I saw, this is what's going on and I was just telling him on the phone, now she is aggressively backing the vehicle up with a parking lot full of people, she is starting to head east bound, I am just giving you a heads up. This investigator asked, so when you called Baker, what exactly did you tell Baker? Dutton said, I told him what I saw, hey this is what just happened, this is what I saw, I am just letting you know um this woman is yelling at me in a parking lot you know, full of people, just letting you know just in case something happened. This investigator asked, did you tell him to stop her? Dutton said, no. This investigator said, so he did that on his own. Dutton said, yes sir. There is some discussion about who Dutton talked to in the car with the teenagers and this investigator asked did you ever find out what he (the kid in the back seat) was laughing at? Dutton said no sir, I figure I probably know what he was laughing at. This investigator asked what to think he was laughing at? Dutton said, I think he was laughing about the whole situation, the way she was but I don't know. This investigator asked how he knew about the traffic stop to show up at it and Dutton explained that he was still on the phone with Baker when Baker stopped the car. This investigator asked if he knew why Baker stopped her and Dutton said, no. I can only assume that he stopped her to see what was going on. This investigator

asked if Dutton had ever been given a policy and procedure manual and Dutton said yes, that he keeps a copy of it in the patrol car. This investigator asked if Mrs. Lee ever started cursing or throwing the F bombs at the Clydes. Dutton said no, not that I remember.

Findings of Internal Investigations case number IA 2018-001 are as follows:

Per Chief Mundy's request of any departmental Policy violations;

SOP violations by Sgt. Baker:

BPD SOP 5.1.7 Conduct Unbecoming an Officer; The conduct, of a public employee, on and off duty reflects upon the department. Employees must avoid conduct which might discredit themselves or adversely affect the morale, operations or efficiency of the department.

BPD SOP 5.1.8 Courtesy; Employees shall be courteous and civil to the public and shall maintain objective attitudes regardless of provocation.

BPD SOP 5.1.11 Training; The department shall conduct annual in-service training on ethics.

15.1.2 Field Units: Prior to stopping a vehicle, officers will advise the Communications Officer of a 10-38. Upon acknowledgement, the officer shall give the exact location, tag number, state of registration, year, make, model, and color of vehicle.

SOP violations by Officer Dutton:

BPD SOP 5.1.11 Training; The department shall conduct annual in-service training on ethics.

BPD SOP 5.8.4 Procedure for Off Duty Action;

- A. First, go to a safe location and call 911.
- B. Second, when you encounter a situation off-duty that seems to require police action, you must consciously evaluate whether your involvement is necessary or desirable, given the circumstances. How important and urgent is the need for your intervention?
- C. Your intervention may actually spark an escalation of violence. Therefore, your best plan of action may be to; gather accurate intelligence like a good witness until uniformed, on-duty officers arrive. Remember you have no legal or departmental obligation to get involved.

Per Chief Mundy's request of any **Criminal violations**;

O.C.G.A. 16-5-42 False Imprisonment under color of legal process. Sgt Baker did make an unlawful traffic stop, which is a form of arrest called a detention per the State of Georgia. In the video when Mrs. Lee asks several times the reason for the stop, Sgt. Baker tells her for coping an attitude. There is no Georgia Code for coping an attitude. Officer Dutton also violated this law in that Officer Dutton arrived on scene and participated in the traffic stop.

Sgt. Baker may have also violated O.C.G.A. 16.11.37 Terroristic Threats and Act. Due to the fact that this is an unlawful detention, when Mrs. Lee starts her car and says she is going to leave, Sgt. Baker says "Ok, pull away and you will be charged."

Per Chief Mundy's request of any **Civil violations**;

This investigator will defer any civil violations to civil attorneys.