COCONINO COUNTY SHERIFF'S OFFICE

ADMINISTRATION DIVISION- ORIGINAL REPORT-YAVAPAI CTY S.O. BOC 10-13
ADMINISTRATIVE INVESTIGATION
INVOVLED EMPLOYEES: CAPT. M. SCHMIDT
REPORTING PARTY: SHERIFF S. MASCHER
Date: MARCH 20, 2013
REPORTING OFFICER: Cmdr. Rex Gilliland #6
SUPERVISOR APPROVAL: Chief Jim Driscoll #2

ASSIGNMENT:

I was assigned the Administrative Investigation of a December 22, 2012 incident at the Moctezuma's Bar in Prescott, Arizona where three Yavapai County Sheriff's deputies were either present, or may have been present when an altercation or a fight broke out involving members of a law enforcement motorcycle club identified as the Iron Brotherhood.

SUMMARY AND FINDINGS:

After reviewing interviews of the Iron Brotherhood members conducted by DPS Special Investigations Unit, reviewing videos from Hooligan's and Moctezuma's bars, and reviewing an audio recording made by Prescott Police, I have made the following conclusions and findings. It should be noted that Captain Schmidt refused to be interviewed for this investigation.

Captain Marc Schmidt violated the following policies/laws:

1) **Yavapai County Sheriff's Office "Mission Statement"**: Specifically, Schmidt did not ensure the enforcement of laws and ordinances, and in fact hindered the enforcement of the law.

2) **Yavapai County Sheriff's Office "Values" Statement:**
   - **Service to Our Communities-** *"reducing the fear and incidence of crime"*
   - **Reverence of the Law-** *"Our personal and professional behavior should be a model for all to follow…..We will obey and support the letter and the spirit of the law"*
   - **Integrity in All We Say and Do-** *"We are proud of our profession and will conduct ourselves in a manner that merits the respect of all people….Our actions will instill public trust"*

3) **Yavapai County Sheriff's Office "Code of Ethics":**
   "I will keep my private life unsullied as an example….I will be exemplary in obeying the laws of the land", "I recognize the badge of my office as a symbol of public faith, and accept it as a public trust to be held so long as I am true to the ethics of police service…..I will, as a representative of the agency, conduct myself in a manner which will not bring discredit to the agency. I shall obey the laws of the United States, the State of Arizona,

County ordinances and local laws. I shall regulate my personal affairs which will not bring justified unfavorable criticism from my neighbors or other citizens or be involved personally in disturbances or incidents that could discredit the agency. I will realize that I am obligated to hold the public trust by striving to act in a professional manner. I understand I must remain constantly vigilant and aware that I am under the constant observation by the public. For this reason, it is essential that I strive to present myself in a professional manner whether on or off duty."

4) Yavapai County Sheriff's Office Policy 3/1800.04, Reason for Disciplinary Action:

C. The representative has violated any lawful or official rule, policy, regulation or order, or failed to obey any lawful and reasonable order given by a supervisor or other individual with authority to issue such order.

N. The representative has engaged in conduct on or off the job, which negatively affects their performance while on duty.

5) Yavapai County Sheriff's Office Policy 3/1800.09 Categories of Offenses

C. Category III

l. Engaging in dishonest or conduct that undermines the effectiveness of the agency's activities or representative's performance, whether on or off duty;

p. Taking any action and/or behavior, on or off-duty, which will impair the efficiency or reputation of the agency or its representatives;

r. Involvement in any compromise between persons accused of crime and the person or persons who may have suffered from criminal acts with the purpose of allowing the accused to escape punishment;

u. Failure to report to a supervisor and/or transmittal of information via the chain of command of any violation of Yavapai County Policy and Procedures Manual, Yavapai County Sheriff's Office policies and/or procedures or appropriate directive.

D. Category IV

b. Falsification of any reports such as, but not limited to, vouchers, official reports, time records, leave records or knowingly making a false official statement whether given under oath or not;

e. Acts of criminal misconduct occurring on or off duty, which are plainly related to performance or are of such that to continue the representative in the assigned position could, constitute negligence in regard to the agency's duties to the public.

6) Yavapai County Human Resources Policies and Procedures 3.08, Disciplinary Actions:

D. Conduct Which is Subject to Disciplinary Action

2. MISCONDUCT
a. All employees are expected to maintain standards of conduct suitable and acceptable to the work environment. Disciplinary action, including dismissal, may be imposed for unacceptable conduct.

3 e. The employee has been accused, charged and/or convicted of a criminal offense while employed by the County.

i. The employee has engaged in conduct, on or off duty that is of such a nature that it would tend to bring discredit to the County.

p. The employee has concealed information or failed to properly report an accident or incident under the purview of any state statute or County resolution or regulation.

v. Failure to follow Yavapai County policies and procedures or Departmental policies and procedures.

7) A.R.S. 13-2511 OR 13-2512 Hindering Prosecution

After a critical examination of Captain Schmidt's behavior the night of the incident, as well as his interview with DPS Special Investigations Unit, I have serious concerns about Schmidt's ethics to his law enforcement profession. I believe he has been deceitful and his integrity in question, which could jeopardize his position as an Arizona Peace officer.

Schmidt's membership in the club and the club's behavior the night of December 22, 2012 is inconsistent with the Mission Statement, Values and Code of Ethics of the law enforcement profession as outlined previously. Further, these activities diminish the public's trust of the officers involved and could jeopardize the effectiveness and public trust of law enforcement agencies. In fact one bar employee/witness stated patrons left the bar due to the presence of the club and further stated, he will not trust these officers anymore (Bennett interview, page 21, line 902/903). This sentiment is evident as well in the many public comments made in reference to the articles posted in both the Prescott Daily Courier and Arizona Republic. See articles marked Attachment 19. Additionally, Schmidt did not assist either Prescott Police that night during their initial investigation or DPS detectives in their investigation. In fact, Schmidt was deceitful and did not want to tell DPS detectives what he knew, saying he only heard two or three versions and it was "hearsay" information about the fight. There is video evidence that about 20 to 25 minutes after the fight, the assault suspect, Eric Amato "Guido" told Schmidt he struck the victim twice. Schmidt is seen congratulating Amato.

It is this investigator's opinion and belief that Schmidt's allegiance and loyalties are first to the club, not to his position as a law enforcement officer, nor with enforcing the law or assisting another law enforcement agency with their investigation of a possible crime (assault) where a person was seriously injured. Schmidt claims not to know the real name of members of the club, even though he states he has ridden with several members for several years. On two occasions in his interview with SIU, Schmidt questions why the investigators are focusing on their club and not the reported

assault. See page 11, lines 472-476 and page 20, lines 892-895. I believe that Schmidt, as well as most other members of the club interviewed by SIU, claim they do not know the real names of club members, but know only their monikers or nick names as a way to protect the identity of club members and as a way to protect the club members who were involved in the fight/altercation at Moctezuma's the night of December 22, 2012.

It is this investigator's opinion and belief that there is probable cause to believe that Marc Schmidt committed Hindering Prosecution in violation of either ARS 13-2511 (hindering prosecution of a misdemeanor or petty offense) or 13-2512 (hindering prosecution a of felony offense) dependent on the classification of the victim's injuries. This determination is made considering ARS 13-2510, Hindering Prosecution; definition, *"for the purposes of 13-2511 and 13-2512 a person renders assistance to another person by knowingly, 6.Concealing the identity of the other person.*" See attachment #15.

INVESTIGATION:

Note: This investigation centers around a law enforcement motorcycle club named the Iron Brotherhood. They will be identified hereafter as "the club." The Arizona Department of Public Safety, Special Investigations Unit is conducting a criminal investigation. They will be identified hereafter as "SIU." Outlaw Motorcycle Clubs will be referred to as "OMG'S.

The subject assaulted has been identified as Justin Stafford. Stafford was struck two to three times by club member Eric Amato (Guido) and suffered serious injury (possible broken nose).

In early January 2013, Sheriff Pribil requested I conduct an administrative investigation at the request of the Yavapai County Sheriff's Office, and asked that I contact Sheriff Scott Mascher.

I contacted Sheriff Mascher who advised he had three deputies who were present at a local bar just prior to Christmas, when a fight broke out involving members of a law enforcement motorcycle club known as the Iron Brotherhood. He identified his three employees by rank only as a captain, a sergeant and a deputy.

Mascher advised he had few details at the time and was waiting for more information from the Department of Public Safety, who was conducting a criminal investigation. He asked that I wait to start the administrative investigation until he received more information.

On February 20, 2013, I received a call from Captain D. Rhodes asking that we start the administrative investigation.

On February 25, 2013, I travelled to Prescott and met with Sheriff Mascher, Chief Russell and Captain Rhodes. They advised their involved employees were members of the motorcycle club and were present at Moctezuma's bar when a fight occurred involving members of the Iron Brotherhood and that resulted in allegations of an assault. They identified their employees as Captain Marc Schmidt, Sergeant William "Bill" Suttle and Deputy Mark Boan.

The Yavapai County Sheriff's Office documents or accepts complaints of allegations against employees in what is called a "Brief of Complaint", hereafter identified as BOC. They advised the BOC on Captain Schmidt was Conduct Unbecoming. The BOC on Sergeant Suttle was Hindering Investigation and Conduct Unbecoming. The BOC on Deputy Boan was Conduct Unbecoming. Rhodes provided the BOC's to me electronically. See attachment # 2, 3, 4.

I requested Rhodes provide me any and all Yavapai County Sheriff's Office and Yavapai County Policies that may relate to these allegations. Those were later provided electronically. See attachments 7, 8, 9, 10, 11 and 12.

Rhodes provided me with 3 C/D's marked "Moctezuma's," "Hooligan's, disc 1 of 2" and "Hooligan's, disc 2 of 2." They are included in the back of the binder with a tab marked "Compact Discs."

February 27, 2013 I travelled to Phoenix and met with Detective Matt Murray and Sgt. Robert Brunet of the Arizona Department of Public Safety, Special Investigations Unit. The SIU had been tasked with conducting a criminal investigation into this matter.

I obtained a summary of information obtained by the DPS SIU. Murray provided me a C/D that contained the un-edited transcripts of interviews they had already conducted with members of the Iron Brotherhood and the audio recordings of the interviews of Captain Schmidt and Sgt. Suttle. They advised that Deputy Boan would not submit to an interview. The C/D contained an audio recording made by Prescott Police officers when they contacted Sgt. Suttle at Hooligan's bar, as well as a couple of interviews of witnesses.

I was provided a photocopy of a photograph showing 16 members of the Iron Brotherhood that was taken the night of December 22, 2012, presumably at the Moctezuma's bar. This photo has each member numbered, as well as a name and moniker or nick name to correspond with that number. The photo bears a signature and date indicating the information was obtained by Bryce Bigelow, a member of the club. See attached. I was provided a second copy of a photograph showing 14 members of the club that DPS had obtained. See attachment # 17, photo marked #1.

From March 4th through March 20th, 2013 I reviewed all the material provided by Yavapai County Sheriff's Office, AZ DPS, the Prescott Police Department Report # 12-46275-000, all the files on two compact discs that contained video footage from Hooligan's Bar and Moctezuma's bar, as well as listened to audio recorded interviews of Schmidt and Suttle and an audio recording taken by Prescott Police Officer Holmes or Shapiro.

I read the following transcripts of the interviews conducted by SIU: (It should be noted these were provided by Det. M. Murray. Murray advised he had not yet reviewed all the transcripts for correction, but he had reviewed some and found they were factually correct, but contained some spelling and pronunciation errors)

Marc Schmidt	aka Loki
William "Bill" Suttle	aka Mongo
Andy Reinhardt	aka Double Time

Bryce Bigelow	aka Duece
Tyran Payne	aka Budda
Clair “Billy” Fessler	aka Tarzan
Troy Teske	aka Heat
Jason Kaufman	aka Bull
Mike Borrello	aka Irish Mike
Albert Camacho	aka Hozer
Eric Amato	aka Guido
Greg Kauffman	aka Top Gun
Chris Alonzo	aka Elvis
James Sutherland	security at Moctezuma’s
William P. Bennett	manager of Hooligan’s

After my review of the above listed material, I found that all the above stated people, with the exception of Sutherland and Bennett are members of the law enforcement motorcycle club named the Iron Brotherhood. All the above acknowledge involvement and membership to the club. From information obtained through the interviews, several publications on outlaw motorcycle clubs and photos I found several similarities between this club and what are known as outlaw motorcycle clubs, or OMG’s.

Both this club and OMG’s have a national organization to which dues are paid and local outlets they both call “chapters.” Both have an hierarchy at the chapter level and both identify a “president,’ “vice president,” “secretary” “treasurer” or “accountant,” and “sergeant at arms.” Membership in the clubs requires an application and a period of getting to know the person (Borrello, page 9 lines 379-382), then approval by the executive board. Membership in both clubs puts stipulations on what type of motorcycle one can ride. The Hells Angels require the motorcycle to be American made and 750 cc or larger, and the Iron Brotherhood requires you ride a Harley Davidson or American made bike (Suttle, page 3 lines 90-92; Fessler, page 3 lines 115-116).

Both wear vests with a three piece patches on the rear that both identify or call “rockers.” It is widely known in both the OMG social circles and law enforcement that motorcycle clubs who wear three piece patch are identified with or known as “outlaw motorcycle clubs” (Alonzo, pages 69-70; Borrello, page 7 line 313 through page 8 line 320; Bigelow, page 38 lines 1717-1727; Amato, page 119 lines 5334-5336; Schmidt, page 40 lines 1787-1792). It was common knowledge that the Hells Angels regulate who can wear a three piece patch through the federation of clubs (Borrello, page 8 lines 346-348; Alonzo, page 70 &71; Bigelow, page 39, lines 1718-1725; Amato, page 123, lines 5505-5510). The Iron Brotherhood patch system mirrors or emulates that of OMG clubs in that the top rocker identifies the club name, the middle patch is the club’s symbol and the bottom rocker states the region or area where they are from. Most other motorcycle clubs wear only a one or two patch vest, however, there are some, but few clubs not identified with OMG’s that wear a three piece patch.

There was a Letter to the Editor posted in the Prescottnews.com site where the Vice President of the Hells Angels Motorcycle Club Yavapai County, Michael Trevor Koepke made a public challenge to the Iron Brotherhood to fight him in three minute boxing match. Koepke offers that if the Iron Brotherhood wins, the Hells Angels will donate $1000.00 to the charity of choice. If Koepke wins, the Iron Brotherhood would agree to disband in the state of Arizona. See attachment 20.

The symbol of the Iron Brotherhood is a skull with blue eyes inside an iron cross. Some OMG clubs have a skull in their patch or symbol (Hells Angels and Outlaws). Several members of this club stated their skull represent fallen "brothers" or law enforcement officers (Bigelow, page 3, lines 101-103; Fessler, page 4 lines 146-147; Borrello, page 3 line 131-132; Amato, page 3 lines 123-130; Alonzo, pages 17 & 18). This investigator has been in law enforcement for 30 years in Arizona and has visited several fallen officer memorials around this state. I have never heard, nor seen anywhere where a skull represents or honors fallen police officers. It is consistent that their color of blue represents law enforcement.

Members have "monikers" or nick names (also referred to by some as club name, or road name), and they bear that name on a patch worn on their vests. Both this club and OMG's refer to their members by their nick name rather than their real or legal names. See Alonzo, page 6, page 56 (we don't use real names); G. Kaufman, page 12 lines 504-505, page 93 line 4151, page 89 lines 3975-3979 (when asked why Suttle would not know his real name, started to answer, "cause we don't" but did not finish the sentence and explains he knows them by their e-mail address); Teske, page 6 line 249; Camacho, page 5; Suttle, page 12 lines 515-516. Both this club and OMG's bear their rank patch on the front of the vest, and mainly on the left side.

The Iron Brotherhood displays the number "92" on their vest. The nine represents the ninth letter of the alphabet, the letter "I" and the two represents the letter "B". In combination, the initials "IB" represent Iron Brotherhood. The Hells Angels display "81" for "HA."

Both refer to their vests as "cuts" and they share some of the same patches such as, "Nomad," "founder," or their rank in the club. Both have other patches of meaning to the individual identifying specific or significant actions or beliefs (Amato, page 5 lines 186-187 & 233, page 6-9 lines 261-388, page 10 lines 405-413 & lines 421-424, page 75 lines 3341-3342, page 77 lines 3447-3448, page 91 line 4060). The patches, vests or "cuts" belong to the club, not the individual (Fessler, page 5 line 211; Bigelow, page 25 line 1084).

On the Iron Brotherhood web site, they proclaim "Iron Brotherhood Nation." The Mongols proclaim "Mongol Nation." The clubs web site bears the initials "BFFB" for brothers forever, forever brothers. The Hells Angels bear the initials "AFFA" for Angels forever, forever Angels and the Mongol's display "MFFM". See photos under attachment #16, photos 1 through 6.

OMG's do not allow females to wear the 3 piece patch, but they are allowed to wear a patch of a different design that in some way connects them to the club. Although there is no direct information on the Iron Brotherhood's stance on this matter, some of the wives or female friends of the club members are seen on video at both Hooligan's and Moctezuma's wearing a vest with a different patch. In Eric Amato's interview, he makes reference that "Tarzan's" (Chief Fessler's)

wife has a “club vest” (page 45 line 1993). The Iron Brotherhood web site does state they are a male only club.

Some club members do have items on their vests or cuts that are indicative of police. Although some club members in their interviews allude to the fact they are readily recognizable as law enforcement, it is my opinion in reviewing videos and photos, that the general public would have a hard time distinguishing these club members as law enforcement officers from other motorcycle clubs or OMG’s.

In reference to my earlier stated finding that Captain Marc Schmidt did not assist either the Prescott Police or SIU in the criminal investigation of an assault, I formed my opinion based on his interview with SIU, the Prescott Police report and an audio recording made by either Officer Shapiro or Officer Holmes of the Prescott Police.

When Schmidt is interviewed by SIU, he is asked about members of the club and their names. Several times, he claims not to know some member’s names. It should be noted that SIU obtained a picture of the 16 members present that night at Moctezuma’s. See attachment #17, photo #1. SIU also obtained a club roster of the Whiskey Row Chapter (see attachment #21) that bears the real names, monikers, address, phone numbers, e-mails and the member’s agency (employer). This roster shows only 26 members.

In the SIU interview, Schmidt is presented with the club photo (marked #1) and asked to identify the members. Schmidt claims he does not know some member’s real names, only their nick names (page 6, line 263; page 7, line 311; page 8, line 351-352; page 9, line 394-402; page 13, line 549-558; page 13, line 570-582). He does identify some members by their real names.

When asked to identify T. Payne, Schmidt claims not to know Payne’s real name, but says he knows he works for Prescott Valley PD (page 6 line 269). In Payne’s interview, he claims he has ridden with this group for four to five years. Schmidt claims not to know “Duece’s” (B. Bigelow) real name (page 8, line 351-353), yet Bigelow claims he joined the club in 2004-2005. Schmidt claims to know “Top Gun” (Greg Kaufmman) by his first name only (page 9, line 394-406), yet Kaufmman claims he has been a member for three years. Schmidt claims he does not know “Heat’s” (T. Teske) real name (page 9 lines 394-397), yet Teske claims he’s been a member for three and a half years. Schmidt acknowledges he has ridden in clubs for 13 years, since 1999 or 2000 and rode with the Choir Boys, a pervious law enforcement motorcycle club. He initially rode with “Elvis” (Chris Alonzo) in Choir Boys, (page 13 lines 560-582), but he claims he does not know his real name without looking at the roster (page 13 lines 575-582).

Schmidt explains he does not know some of their real names because they are either new to the club, live and work in the Phoenix area, or because he does not socialize with them. Schmidt is not questioned about how many rides they go on or how many times he has been with these people or other club functions, but he does acknowledge he has attended the annual club Christmas event the last three years. Other member interviews indicate the club has monthly rides, a “national ride” as well as the annual Christmas party.

When Schmidt is questioned by SIU about how rowdy the club was getting that night, or any issues that may have come up, Schmidt said there were none, and questions SIU as to why they are asking about the club and not the incident. Schmidt goes on to answer the question and states no one was getting rowdy and that they are all pretty reserved, and they are all "good friends" (page 21 line 905).

During the questioning of the club membership and names, Schmidt had stated he knew "Elvis" (C. Alonzo) because they used to ride in the Choir Boys, although he did not know his real name, and qualified his statement, saying Elvis had just joined their club (page 13, line 570-571 & 575-576). When questioned further, Schmidt contradicts himself and states that he did not think Elvis rode with the Choir Boys (page 14 line 598). However, later in the interview, Schmidt states he is certain Elvis was with and came over from the Choir Boys (page 53, line 2342-2343). Schmidt twice states he had ridden with either the Choir Boys or Iron Brotherhood for some time (1999 or 2000), (page 44 lines 1940-1943 & 1958-1959).

Schmidt does acknowledge there is a club roster that he has to refer to (page 11, line 496-497) and most of the members he does not know, have just recently joined the club in the last six months (page 11, line 798-500). Bigelow in his interview states that Elvis, Guido (E. Amato) and Gato (F. Mendoza) were all Choir Boys who recently joined this club (page 37, line 1623-1628). Amato in his interview states that he knew Alonzo from the Choir Boys (page 14, line 586).

Several members interviewed state the club is just a group of police officers who they know and trust to ride together (Camacho, page 2 line 65, page 10 line 412-416, page 28 lines 1216-1222; Fessler, page 60 lines 2650-2686; Payne, page 4 lines 142-147; Bigelow, page 63 lines 1447-1448; page 39 lines 1715-1717; Suttle, page 13 lines 541-543). In my experience, police officers are skeptical, cautious and guarded with whom they associate and socialize. I find it hard to believe members of the Iron Brotherhood do not know the first and last names of the members of this club. I believe Schmidt knows the names of most or more of the club members than he chose to share with SIU investigators.

I believe Schmidt was reluctant or refused to identify club members, showing his allegiance or loyalties first to the club and not with helping police investigate a crime and/or identify the suspect in that crime. On two occasions while Schmidt was being questioned about the club, he becomes defensive of the club and asks SIU investigators why they are focusing on the club (page 11, line 474-475; page 20, line 893-895). During the interview, Schmidt tells investigators he is at the back bar of Moctezuma's alone with this wife (page 27 lines 1187-1195). The video marked "Moctezuma's, 403-003 disc C, moctezumas, b1222" is a quad screen shot of the rear of the bar. Although it is difficult to see, Schmidt and his wife are at the rear most section of the back bar. They do appear to be alone, but several members of the club and their wives or girlfriends occupy most of that area and are within an estimated 20 to 30 feet of Schmidt.

Fessler and his wife walk into the area just after the fight broke out. Fessler and his wife split up, with Fessler continuing to walk back and make contact with Schmidt. At time stamp 22:40, a female wearing a vest that has been identified as Chief Fessler's wife, is seen going up to two male members of the club, who are at the front corner of the rear bar. She is obviously advising them of the fight, as she points that direction and the two members run towards the area of the fight. This

same female is seen walking back to Schmidt, his wife and Fessler. Additionally, in Suttle's interview, he claims he is at the back bar with his wife (page 21 lines 901-910).
There is clear video evidence (Hooligan's, Disc 2 0f 2, camera 11: bar 2) that Schmidt knows the identity of the suspect who assaulted the other bar patron, Justin Stafford. The video shows Eric Amato demonstrating and bragging about the fight to several members, including Schmidt, about 30 minutes after the incident. The fight occurred inside Moctezuma's at about 2240 hours, and Amato is seen telling Schmidt at 2309 hrs.

As shown in the Hooligan's video of the front bar, club members are first seen on video around 2256 hrs. It should be noted the times listed in this report are taken from video monitors at Hooligan's and Moctezuma's, and it has not been established that the time stamps are exactly synced. The following is a typed chronology from the Hooligan's video:

22:56	club members have entered the bar and are seen on video at 22:56 hrs. This is about 15 to 20 minutes after the fight at Moctezuma's.
22:56:36	Schmidt is first seen on video inside the bar
23:06:22	Suttle is first seen on the video inside the bar
23:03	Fessler is first seen on the video inside the bar He talks to Bigelow and Alonzo. Fessler demonstrates a closed fist strike with his right hand and then holds both his arms and hands up like a "surrender" position. He also grabs the front edges of his vest. It is believed he is telling the story of the altercation.
23:05	Fessler is talking to T. Payne and again demonstrates a closed fist strike with his right hand. With his right hand, he quickly opens all his fingers up, simulating something opening up quickly or blowing up. He then holds his arms and hands up in the surrender position as he did with Bigelow and Alonzo.
23:08:02	Amato is talking with Camacho. Amato doubles up his right fist and then shows Camacho his knuckles and points to his nose. Camacho then holds his hand under his chin, possibly simulating someone spitting their teeth out or catching blood from their nose or mouth. This is within two or three feet of Schmidt, but Schmidt is talking with other people and appears not to see this.
23:08:22	Amato is talking with an unknown female, who is standing next to Schmidt's wife and Schmidt. Amato reaches out with his left hand, demonstrating he is grabbing someone's neck. He doubles his right fist and demonstrates a closed fist strike, then demonstrates two quick closed fist strikes in quick succession. He then points to his nose, then shows her his right knuckles.
23:08:58	Alonzo approaches and speaks to Amato. The two "high five" and give "knuckles" to each other. **Amato uses his index and middle finger of his right hand to indicate**

"2" and then shows Alonzo his right knuckles. Camacho is talking with Schmidt when Camacho points at Amato, while Amato is talking with Alonzo.

23:09:16 **Schmidt approaches Amato and gives him a hug and whispers something to him. Schmidt lets go, gives Amato a pat on the shoulder and backs up a step. Amato holds up his two fingers of his right hand demonstrating the number 2 again. Schmidt then grabs Amato's right hand and gives him a hand slap and shakes his hand in an obvious congratulatory move. The two then laugh. Amato and Schmidt point to the patches on the lower right front of his vest. It is reported Amato has his "Rocky Marciano" patch on his vest.**

23:09:52 Amato approaches Alonzo again, where he again demonstrates grabbing someone by the neck. Amato doubles his right fist and demonstrates a close fist strike, then two more closed fist strikes in quick succession. Amato points to his nose, then to his face and then moves his hand up and down his shirt. It is believed he is simulating someone bleeding on their face and shirt. Amato then shows Alonzo his right knuckles.

23:10:48 Amato turns and begins to tell Schmidt and Camacho something. He uses his right index and runs it up and down Schmidt's vest, then simulates pelvic thrusts, then points to the ground with some emphasis or force. It is uncertain what they are talking about, but it is believed Amato is telling Schmidt about Stafford (victim) touching Fessler's vest, then the victim going down to the ground after the strike.

23:11:35 Schmidt receives a text or email

23:13:26 Schmidt finishes reading and starts to walk away. He talks with Bigelow and Payne then walks out of view. Schmidt comes back into view four more times at 23:14, 23:19, 23:28 and 23:32

23: 32:00 First time Suttle is seen on video at Hooligan's

23:50 Suttle walks to the back of the bar

23:53:19 Prescott PD is seen on the video inside bar. They talk with Alonzo and Payne.

23:53:57 Suttle returns and contacts PPD

23:53:27 Suttle and PPD walk to rear of the bar

It is clear that Amato is describing and demonstrating the assault/strikes to Stafford to several people within a several minute period. When Amato tells Schmidt, Schmidt makes what appears to be congratulatory gestures by the pats to his shoulder, hand slap and hand shake and both are laughing. Both Schmidt and Amato are seen pointing down to the lower right side of Amato's vest

where he has a several small patches. It is believed he possibly wears the “Rocky Marciano” patch in this area. In Amato’s interview, he talks about this patch and is asked if it is on the left side. It is not clear if his answer is to affirm he has the patch, or if the patch is on the left side.

In reviewing all the interviews, it was learned that Amato was “patched in” (joined) the club in June 2012 (Suttle, page 44 line 1947; Borrello, page 46 lines 2045-2046; Amato, page 10 lines 446-448). Amato discloses he received his “Sergeant at Arms” patch at a ride to Wickenburg in the fall of 2012, while another identified this event in November 2012 (Amato, page 11 lines 462-474). Amato said he received the “Rocky Marciano” patch from club member J. Kaufman at the same time (Amato, page 5 lines 186-187, page 6 line 233, page 10 lines 405-413). Amato discloses the “Rocky Marciano” patch was in reference to the fight in Reno where he defended a member’s wife who was assaulted. On four occasions, he talks about other members equating him to Rocky Balboa or Rocky Marciano and coining a phrase about Amato striking someone as going “Rocky” (Amato, page 10 lines 405-413, page 75 lines 3336-3353, page 77 lines 3443-3448, page 91 lines 4059-4074).

On page 30, lines 1326-1131, Schmidt tells SIU he does not know about the fight until after Prescott PD shows up, when in fact, he knew about it sometime earlier from Amato. Schmidt is asked who told him about the fight and what did they say. Schmidt’s does not want to answer the question. His responses from the interview follow.

Schmidt later states, page 31 lines 1348-1357:

A: …you know. ***I mean I don't have any knowledge of the fight*** *so…*

Q: I under- I understand.

A: …I - I - ***I prefer not to*** *- I mean you guys are gonna talk to the guys that are actually involved and find out exactly what took place of the fight. I didn't witness it* ***- I don't have any information other than the two or three versions of the story that I got. And I prefer not to, um, I prefer not to answer the question. I'll let you guys figure out what really occurred at the fight.*** *I didn't see anything.*

Page 32 lines 1402-1436:

A: …per- I have no personal knowledge.

Q: …but somebody did witness it.

A: Right.

Q: And somebody told you something.

A: Yeah but I don't even know if they witnessed it. My - the - the - the…

Q: Well then when we ask them then we'll know.

*A: …**last version of the s- the last version of the story I got was told to him from somebody else that talked to him about it. It - it's third hand.***

Q: Then we can track that down.

*A: So I don't know - I don't, um - I don't know exactly what took place so, you know, if I get three different versions and I discuss three different versions with you guys you guys still have to sort it out. It doesn't really matter. It just means that it makes it more difficult. You guys know who was up there and what - what took place. I didn't witness anything so I don't really know what took place. I was told that - that, um, that there was a fight at the bar and that (Guido) had punched somebody because the guy took a swing at him. And so I didn't think anything else about it. I thought well, you know, if that's what, you know, the guys gonna do then, you know, he's got a - got a right to defend himself. So I didn't ask any questions. **(Guido) was in there - I never even talked to (Guido) about it.** Um, I never talked to, um, after I saw Suttle and Fessler talking downstairs with pres- the police department I just didn't think anything abou- anything about it. Came back up and - and, um, hung out. **Nobody was sitting around - no - not everybody was sitting around talking about it. It didn't seem like it was a big issue.** Um, but I didn't explore it or - or talk to anybody and try to get any more facts about it. That's just what I was told. So I went about - and my wife and I just went about enjoying ourselves so.*

Page 35 lines 1543-1559:

*A: They must have 'cause they were out the back door. And I think everybody was just kind of - I just remember just seeing everybody kind of scattered out going back down there. And we all went upstairs. But I don't remember, um, and I don't know when - when, you know, PD came and got them. I don't know how they knew that - that PD needed to talk to them**. I just know that somebody said hey, you know, those guys are out back talking to Prescott Police Department about, um, (Guido) punched somebody in - in Montezuma's. So…***

Q: And who told you that?

A: I don't remember who told me that. Um, I don't remember who told me that.

Q: Okay.

*A: **And that's when I first became aware that it was actually a fight**. I always thought we just got kicked out of there because we were wearing our cuts and they - and th- we knew we don't allow it so that's what I thought we left for. But - so I went out back to check on them and they were down there talking - talking to, uh, (Hobbs) so - from Prescott Police Department a couple other police - police officers standing there so I turned around and walked back in.*

It is this investigator's opinion, based on the Hooligan's video and Schmidt's interview, that Schmidt lied to DPS SIU investigators about his knowledge of what had occurred inside Moctezuma's, who was involved, when and who told him. He did later state he was told "Guido"

had punched somebody (page 32 lines 1424-1425), but claimed he did not know who told him and that he was told only after he saw Prescott Police talking with Fessler and Suttle.

Additionally, Schmidt is overheard on the audio recording made by Holmes or Shapiro. Although a little hard to hear over the bar noise, it sounds like Schmidt asks the Prescott officers if they got called there. An unknown officer is heard saying they were there investigating what had occurred earlier. An unknown voice is overheard saying, "What's up Schmidt?" Schmidt is heard asking the officers, "What was it? What'd you guys do?" An unknown officer is heard saying they have a kid at the hospital that was punched in the nose. Schmidt responds, "By one of our guys?"

I found Schmidt made an interesting statement to SIU investigators in his use of the word "retaliation" instead of "justified" or "self- defense" (page. 41, lines 1816-1828). Additionally, he states that the next day, the club has information that club member "Top Gun" was supposedly stabbed in the leg during the incident, and they all laugh about it (page 42 lines 1862-1864).

Several times toward the end of the interview, Schmidt acknowledges his membership in this club could or does affect him, his agency and the public perception. He stated he understood the consequences and risks of being associated with this club, yet he still chose to do so. Additionally, he states on a couple of occasions how the club seems to attract trouble from the public.

Of concern, Schmidt talks about the public perception of membership in the club and of motorcycle riders and how it reflects on the agency. He goes on to say that he and Fessler talk about leaving the club because of it and that drives their actions; irritates both of them to be faced with that kind of decision. It is unknown what actions he took, but he clearly made his decision to stay in the club, considering his position, the public perception of his agency, and the trouble with people wanting to pick fights them.

<u>Page 40 lines 1787-1792:</u>

I would say that was a lie. Um, only because, um, you know, we – we – we just don't do that. That's why we normally leave when we're asked to leave. We don't – we don't cause any problems – we understand, um, that a lot of – a lot of, uh – um, establishments don't allow cuts. So we've – we go in – if we get asked to leave we leave. We don't cause any problems – and this is one of the reasons why we try not to cause any problems. ***Because we – we understand that being a club that flies – flies a three piece patch there's always suspicion of our behavior. And we've always talked about that from the time I joined the – initially joined the club. I mean when your – your agency, um, in – in gang classes – our guys go down to gang classes – and we get lumped into, you know, uh, outlaw motorcycle groups.*** *So we understand that and that's why we try to police up and we try not to cause any problems. Um, so, um, that would surprise me if it happened.* ***And I would say that it's probably a fabrication. But, um, that's my opinion****. I don't see anybody doing that that's in our club.*

<u>Page 41 lines 1816-1828:</u>

And the rest of guys been around for a while - I've ridden for a while. And no nobody's hot headed - ***matter of fact I've seen many occasions - most of the guys in the club - back away from, uh,***

people in f- in establishments that are kind of, um, getting in our face. *And that's generally what we do. It just doesn't matter to us because if, um, you know, and we've - we've discussed this - it's just if somebody takes a swing at us or tries to assault us then we'll - we'll take action. But for the most part everybody just tries to walk away from any altercations from anybody. Because this is what you get, you know. It's presumed that we were, you know, that we did some thing illegal or - and I don't know because I didn't see the f- the - the punches being thrown. So, um, I - I hope the tapes - the video tapes support, you know, um, the stories of the guys that were involved.* ***I hope it was a retaliation - somebody took a swing at somebody else and - I don't know though.***

Page 43 lines 1893-1895:

Yeah I don't know how it came to blows - I just know that, uh, somebody was after hi- touching Fessler's cuts and he just said hey, you know, I don't want anything to do with it. You know, just - just go mind your own business you wouldn't understand anyway or something like that - to that nature. But he was doing basically what we always do. ***And we always just go - when somebody's, uh - uh, getting in our face for one reason or another we just always - we're kind of like you know, what just mind your own business - go your own way.*** *We don't - you know, we're not looking for any problems. So, um, and that's what it sounded like happened that night. Now how - how, you know, the blows started being thrown I don't know.*

Page 44 lines 1938-1954:

No - no we just - we just go over and make sure it doesn't get out of line. We don't push anybody we just, uh, separate - you know, we just try to separate everybody and calm everything down. ***Um, but, you know, I've been in this club for 13 years never been involved in a fight. I've never even seen a fight involved with any of the club members. Either the Choir Boys or the Iron Brotherhood. I've seen dozens of occasions where, um, you know, intoxicated people come up and - and want to pick fights for one reason or another. You know, or say rude things to, um, s- somebody's wife or - or them.*** *And generally it's usually just, you know, go mind your own business - go back - back to the bar. And then sometimes the sergeant at arms if it looks like it's getting heated I'll grab the guys and we'll just take off when I was a sergeant at arms. This is not going anywhere - this is gonna be a problems so let's get out of here. And we've left - and generally that's what our policy is. We don't need to be, you know, we don't - because - and - and this is exactly why - we don't need to be in altercations.* ***And, um, everythin- our conduct is questioned every time we do something.*** *So we try to avoid it at all costs. So, um…*

Page 46 & 47 lines 2063-2069:

Well I think, uh, Fessler called me and said, you know, this is getting way blown out of proportion and, you know, they were mis- they were reporting, you know, information and - ***and we had actually discussed prior to this even happening, you know, we - we joked - when he got chief position and we got promoted we joked about maybe it's time for us to get out of the club. Only because of this - not that we thought our conduct would - I mean our conducts always questioned regardless.*** *Um…*

Page 47 & 48 lines 2090-2116:

"It's the stereotyping so we get looked at and or we get approached like I said before. ***People always want to pick fights - we just like listen, you know, go mind your own business.*** *But, um, the implications that go along with riding in a club that some people don't agree with the culture.* ***And - and see it as a - as a outlaw group no matter what your conduct has been - no matter how honorably you've served for years.*** *You don't get judged on that - you get judged on your personal - for - you get judged on the - the stereotyping. You know, nobody looks at you as an individual and see's who you are and then realized, ah, he's just a guy who rides in a club. Um, generally what gets taken first is like what's reported in the media. You know, we pummeled some guy for no apparent reason.* ***Um, so we talked about that only because of the positions that we were in that it's the perception and it reflects directly back on the agency. And he and I had both discussed for the last year that we probably needed to step away from the club until our careers were done. Um, but I know that irritates both of us that - that basically, you know, um, the publics perception of people that ride motorcycles is what really controls your actions. So, um, it - it kind of irritated both of us that we were faced with that kind of decision. And, um, but I mean this is just a prime example of what took place. That - that, you know, he's - and - and his position - and that's what we talked about - his position as a chief, you know, I mean, uh, it's, you know, it's probably not what your, you know, wanting your - your agency to be perceived as, you know, you're chief so it just goes with the territory. We - we new about it - we knew the - the consequences and the risks of being associated - no matter how innocent it is and how, you know, how, uh, honorable we've served it just goes along with the territory. And we realized that. And he's suffering the consequences and, you know, we all are - my boss isn't real happy either.***

Page 54 lines 2421-2422:

Right and that's why we've always just kind of - you know, we just - it's - it's not about - it's not about, um - it's not about, you know, going and bullying people or anything. It's - that's why we - generally we just leave. You know, we back off we'll - we'll grab whoever's involved and walk out the door. ***It doesn't really matter to us because our careers are on the line here****. So we realize that so…*

Page 55 lines 2427-2439:

Um, there's never been a discussion about getting rid of the patch. ***There's - there's always discussion about whether you're gonna stay in or not. So - and generally that discu- those discussions take place between an - with those individuals who start to acquire rank in the - in the club. So, you know, I rode forever as a - as a sergeant and things changed. As a lieutenant there was a little more pressure. I almost didn't join the club after the Choir Boys - I was one of the last people to come back to the club.*** *And this is what I talked to my wife about.* ***You know, there's always - what I joke with Fessler about - there's always - it's just a matter of time before something like this happened. And that's why we had discussed about getting out of the club at the time and then maybe getting back in when we were, you know, out - when we retire - basically***

got out. Because of the positions we were in. Um, so there's always discussion about whether you're gonna stay in or not, you know.

I contacted Chief Deputy John Russell, who is Captain Schmidt's immediate supervisor. I asked if (per policy) Schmidt notified him of the incident and Russell reported Schmidt did not notify him or any other command staff of the incident.

March 22, 2013 I left a message for Schmidt to call me. On this same date, Schmidt did return my call. I introduced myself and advised that I was tasked with conducting this administrative investigation and informed him I needed to interview him. I asked if he would be available for an interview. Schmidt refused the interview, stating, "I don't see any need to provide any information." He went on to say he had already been interview and provided information in that interview.