

**MIINUTES  
CITY OF ORMOND BEACH  
CITIZENS LAW ENFORCEMENT ADVISORY BOARD**

**November 10, 2020**

**6:00 PM**

Ormond Beach Police Department  
Training Room  
170 W. Granada Blvd.  
Ormond Beach, Florida 32174

Note: Due to the Coronavirus, all Board members had their temperatures checked prior to entering the training room. Masks were worn by all in attendance.

The meeting was called to order by Mr. Shumaker at 6:02 p.m.

**ROLL CALL**

Members present: Ken Kimble, Matt Coleman, Ed Shumaker and Jonathan Kaplan

Excused absence: Matthew Pittman

Also present were: Chief Godfrey, Captain Roos, Captain Smith, Sergeant Willis and Recording Secretary, Sandy Smith

Visitors: Sergeant Tom Larsen, Marcia Gallagher

**APPROVAL OF MINUTES from August 11, 2020**

Mr. Kimble made a motion to approve the minutes as written; seconded by Mr. Kaplan. All were in favor; motion passed unanimously.

**REVIEW OF FILES:**

Internal Affairs: #19-007

Response to Resistance Reports: #20-012, 20-024, 20-025

Vehicle Pursuits: NONE

Professional Standards Inquiry: #20-005 (complainant requested to speak to the Board)

This file was reviewed by Board at the August 11, 2020 meeting

20-007, 20-009

**DISCUSSION:**

Ms. Marcia Gallagher addressed the Board by reading her written statement she provided to Board members. (attached for reference) and thanked the Board for listening.

Mr. Shumaker asked Ms. Gallagher several questions including: Did she contact the owners of the adjacent apartment about the people who were living there? Ms. Gallagher responded, repeatedly. Mr. Shumaker asked if she had any documentation on that? Ms. Gallagher responded she had called the cell phone and sent several emails to the homeowner. Mr. Shumaker asked her, "what were you arrested for?" Ms. Gallagher responded, battery, touch and strike, resisting an officer without violence, criminal mischief, damage to property \$200 or less. Mr. Shumaker asked about the

battery charge and Ms. Gallagher responded, “the stoners next door, it happened last April when it was very windy outside and what looked like to her a fire with a big bottle of lighter fluid, no hose back there and I called the Fire Department and the Fire Department said they could have a BBQ, but, they weren’t even out there and all I could smell was fire and anyway, I put the fire out with a hose from my patio. The boys came out and started jumping in front of the stream from the hose and my guess is they thought I assaulted them by putting out the fire”. Mr. Shumaker asked Ms. Gallagher if she knew what the charge of battery meant? Her understanding of the battery charge was because they got hit with the hose. Mr. Shumaker said, “battery is the intentional touching of someone against their will”. Ms. Gallagher said she was putting out a fire in her backyard and they jumped in the stream of water, created a video and called the police to file charges. Ms. Gallagher said this was a manipulation of a situation. Mr. Shumaker said to Ms. Gallagher that her recourse would be civil and if she had problems with the arrest than it would be a civil case and this is not something the Board can help her with.

Mr. Shumaker went on to say that the Board reviews all Use of Force, all Internal Affairs, Vehicle Pursuit inquiries this Department does and I can tell you in the past 4 years that I have been here, 99% of the time the Police Department acts accordingly. I have done ride-a-longs with the officers.

Ms. Gallagher believes something has changed and that there is a disconnect that she has noticed in the last year.

Mr. Coleman said to Ms. Gallagher what bothered him was the words, “chilling” and “pirated” used by her in her statement in response to the police officers. Mr. Coleman asked her if she requested to review the Body Warn Camera video of the incident?

Ms. Gallagher did say she reviewed the video with Lt. Elkins on July 2<sup>nd</sup>.

Mr. Coleman asked her if she saw anything on the video where you mentioned they were laughing at you and refused to give you water?

Ms. Gallagher said this stuff happened when she was in custody. I did not see anything after I was placed in to the police car. I saw them when they came to my front door. Mr. Coleman than asked her if at that point would you say the officers were being professional? Did you see anything in the video that you would say was unprofessional?

Ms. Gallagher said she believed they were there to help her. I thought they were investigating the fire hazard in the back area. That’s why she came out of her house. As I started to walk around the side of the house with them to take them in to the back area to show them what was going on back there. That’s when the fellow jumped on me from behind, I thought he had tripped over a tree root. When I saw it on the video I just couldn’t believe it. I didn’t know why I was being arrested or for what.

She mentioned she felt like her constitutional rights were violated. Mr. Shumaker said to Ms. Gallagher that if she feels that her constitutional rights were violated than she has civil recourse and that's what we are advising you. Ms. Gallagher said she understands that and the reason why I didn't jump to going down that path is because I want to fix the problem and admitting that there is a problem in the first place. We need the police department. There is a serious disconnect that occurs between the Police and the public and we need to admit this is happening and somehow fix it.

Mr. Shumaker said, just like yourself being arrested, "if you admit to the crime, they are going to charge you with that charge". If the Police Department, like you say, you want them to admit that they are unprofessional, how can they do that in good faith?

Ms. Gallagher said why even bother going through the investigation in the first place if you already knew what their outcome was going to be. Why are the Police looking at investigating these things? Where are these policy changes that I was told were going to happen?

Mr. Shumaker asked Ms. Gallagher, what policy changes were you told were going to happen?

Ms. Gallagher responded, I wasn't told anything specific. I was told in general that these concerns could be addressed with policy changes. That is why I contacted my City Commissioner and City Manager – we need a functioning Police force not an adversarial one.

Mr. Shumaker said to Ms. Gallagher that he thought she was looking at it just through her eyes and not looking at the whole big picture. These guys go out there everyday and put their lives on the line. Mr. Shumaker went on to say that Ms. Gallagher needs help civilly and if she feels like her constitutional rights have been violated, she needs help in the Civil Court and that is what I suggest you go do.

Ms. Gallagher apologized and said she was told this was the proper way to present her concerns.

Mr. Shumaker said we review every case as it involves, resistance, internal affairs, vehicle pursuits or any time a Police Officer even pulls his gun out for any reason, we review it. I can tell you right now as long as I have been here, I have been very well satisfied with what I have seen.

Ms. Gallagher went on to say that she is a positive person and that's why she didn't automatically want to sue the City, that's why I didn't go down that path. I wanted something good to come out of this and that is why I am here tonight.

Mr. Shumaker said to Ms. Gallagher, if you could tell me what you expect for us to do, we would listen to you, but so far, what I have heard the only thing I think you can do is civilly.

Ms. Gallagher said, let me ask you this, the Ormond Beach Police Department is certified every 3 years - we should have quarterly reporting for accountability for various types of arrests where formal interviews have been conducted to determine probable cause prior to arrests. She suggested this policy change to which Mr. Shumaker responded, this is already policy.

Mr. Shumaker asked Ms. Gallagher if she ever read the Search & Seizure Laws and went on to say the officers did not need a warrant as they did not enter her house.

Ms. Gallagher read from her notes her 4<sup>th</sup> Amendment Rights and said she was pirated and lured out of her house. Ms. Gallagher asked why didn't the officers invite her down to the Police Department so she could explain what was going on. Would it have been better to let the place go up in flames?

Mr. Shumaker said these people were having a BBQ and that you came over there and put their BBQ fire out.

Ms. Gallagher said that is what a court is for. You just don't take and arrest somebody and pirate them out of their home, put them in handcuffs for hours in a police car.

Mr. Coleman said in the incident report-there were 2 prior calls for the same incident. Did you think the other 2 times were because of a fire at that point? How many times have you thought there was a fire there and it was your job to put it out?

Ms. Gallagher responded I didn't have to go put it out, I was standing on my patio and the flames were blowing around and I had a right to put out a fire that could have caught my home and property on fire. I determined that was a fire hazard. You all can continue along down this path but it's not just about this incident. It's about having to do some reforms to get the Police back in touch with the community. The whole Protect and Serve thing has changed and I am here tonight as a positive person who likes Ormond Beach and wants to see the Police go back to the way they use to be. Concerned about protecting and serving the community. There is an adversarial relationship going on right now-something changed.

Mr. Shumaker said if that were true ma'am we would have more than just one person making the complaint. We would have several people coming in and making complaints that we would be reviewing. That is like saying that we have a systematic problem in the United States.

Ms. Gallagher said good evening and exited the meeting.

Mr. Coleman asked what is a bladed stance? In the report it stated she was taking a bladed stance. Captain Smith responded that means straight on. Mr. Coleman asked if that was seen in public as more confrontational. Captain Smith said it was a read for officers that something may be imminent or harassment, to put your strong foot in front of the other.

Mr. Shumaker said I know there are times when we would like for everybody to put that badge on and go out there for a couple of days to see what leads up to what is going on and I am sure by the way she was confrontational the whole time that that's the way she greeted the police officers also. I understand how situations like that can happen. If there was a huge problem, every time we met there would be someone sitting over there telling us about it.

Chief Godfrey said that he felt things changed when she got arrested and she may have a different view of the Police Department and I can assure you that our officers are not out there to be adversarial, it's not the way we police and it's not our mission statement. There were categorically some things she said that were 100% not true. It took a lot of restraint on my part not to interrupt her but it's not my meeting. I will tell you that the pain we went through listening to that was the same pain the City Manager and myself sat through for hours, that Lt. Elkins and I sat through with her and trying to explain everything to her and she would just not hear it. What she left out was that we were there 2 or 3 days earlier and COVID had just happened so we were trying to go hands off but we told her you can not spray in your neighbor's backyard or on the food on their grill. It's not your grill, it's their grill and your ruining their food and that's criminal mischief. We actually filed charges on her and told her that on video. She didn't hear that because she was being argumentative so she said they never told me I was being arrested. The officer did stumble outside and thank God he was in the grass and wasn't on the concrete. That was a calamity of errors so to speak. The officer called his supervisor to say here's what happened and things kind of went sideways. The Supervisor was sharp enough to say you need to document everything and do a Use of Force. The Judge found first appearance at her arrest. He didn't say this was a bad arrest and throw it out. The State Attorney's Office filed and they decided not to proceed probably based on her age and record which they would do for anyone.

Mr. Shumaker said the State's Attorney's Office probably felt she already had enough punishment.

Mr. Kaplan asked if there was ever a consideration of a particular policy change.

Chief Godfrey said it was mentioned to Ms. Gallagher that she could come here to review. It was so that you all could look at it but the Board had already reviewed the Use of Force in June and the complaint about Officer Ogle who was in training at the time and the Board reviewed in August. So, she was advised that she could come to the Citizen's Law Enforcement Advisory Board.

Captain Smith noted that this was the third time she had done this.

Captain Smith noted that Ms. Gallagher was videotaped by neighbor going on their property and using her water hose to put the grill flames out. Captain Smith also noted that Ms. Gallagher was told she was being charged the first time, knock it off, this is illegal.

Mr. Coleman asked about the plan to arrest and doesn't that kind of take the place of a warrant based on the previous incidents that had occurred?

Chief Godfrey responded misdemeanor exception and we had already been there before, already had filed charges and the officers probably thought we will keep coming back over and over again. Chief said he felt like this would have escalated had the officers not intervened.

Captain Smith responded with the number of incidents that had occurred we probably would have walked through a warrant with the State Attorney's Office, got a Judge to sign it and that would have expedited the process.

Section 1 Internal Affairs:

IA 19-007 – Mr. Shumaker asked what was the crime committed?

Chief responded, it was alleged that he was trading prescription narcotics for sexual acts.

Mr. Shumaker said that 6 of the 8 charges were sustained, correct?

Chief responded, yes. The Florida Department of Law Enforcement and the Volusia County Sheriff's Office did not find anything criminal on him.

Mr. Shumaker, was he criminally charged?

Chief Godfrey said this did not produce anything criminal. However, his acts gave rise to a level of concern when we investigated him for our policy violations.

Mr. Shumaker asked if his certificate was taken?

Chief Godfrey said, not at this time.

Mr. Shumaker asked if another department was to call our Internal Affairs Division because he applied for a job somewhere, what would they tell him?

Chief responded, come look at the file. First, they would say, give me his CJSTC 58 Form which allows us to release information on the former employee.

Captain Roos commented that the allegations not found sustained were the major ones. The ones that were sustained would not be a certificate revoking offense

Chief noted that the Florida Department of Law Enforcement's Criminal Justice Training and Standards Commission would be the organization to revoke his license and we reported this incident to them.

Mr. Coleman asked how often are our Officers reminded of things not to do – like FaceBook posts, etc.?

Chief Godfrey said there is a certain amount of common sense that we expect our Officers to have.

Captain Smith noted that we do have policies about what you can put on social media.

Chief made comment that when one of our own tarnishes the badge – we all take a hit for it. We use progressive discipline and this officer couldn't escape his own history and that is what probably hurt him the most.

Section 2 Response to Resistance Reports:

No issues

Section 3 Vehicle Pursuits: – NONE

Section 4 Professional Standards Inquiry

Mr. Coleman noted that when complainants come in to view video cam they realize that's not the way it went down and he felt that by them having the ability to review the issue resolves itself.

**OPEN DISCUSSION:**


Mr. Shumaker asked what the City Ordinance was for service vehicles such as delivery trucks, lawn maintenance vehicles parking/blocking a traffic lane making vehicles have to go around the service vehicle?

Captain Smith responded City Ordinance allows service vehicles to be parked in the roadway while they are actively doing service work. Any vehicle performing a commercial service is permitted to park in the roadway while they are actively doing work

**ADJOURNMENT / NEXT MEETING:**

Next meeting February 23, 2021 at 6:00 pm

There being no further business, Mr. Kaplan made a motion to adjourn, seconded by Mr. Kimble, motion carried. The meeting adjourned at 6:57 pm

  
Ed Shumaker, Chairman

November 10, 2020      Remarks for Citizen Law Enforcement Advisory Board Meeting

I am an 11 year homeowner in Ormond Beach, and believe there is no better place to live. I bought my Townhome at foreclosure auction in 2009; it was a wreck and the adjacent Natural Area was trashed. It cost me tens of thousands to make my home habitable and a lot of work to clean up the Natural area. My next door neighbors were a lovely family, who sold their townhome last July (2019). I appreciate living in this nice family neighborhood - with kids playing, its many dog-walkers, hikers, bikers and others who enjoy this peaceful area.

My townhome is in the Arbor Trails Homeowner Association, in the Lakebridge area and borders with the HOA Visitor Parking Lot. The parking area is not monitored. My sideyard and backyard is a broad semi-circle that borders Lakebridge Dr. Over the years I had appreciated the professional response by OBPD to a variety of calls and believed they were here to "protect and serve" this peaceful Community.

The new owner of the next door townhome, since last July, has had two groups of short-term renters - loud potty-mouthed "stoners", who did not appreciate that this is a family neighborhood. Last Fall, I called the police about repeated threatening incidents toward me, by one of the first group of renters next door. Unlike the response by police in the past, the poor judgment in the handling of these only made that bad situation worse.

I documented this in the Supplemental report I filed as a follow-up for an October 2019 Incident Report by Officer Ogle. I referenced this again in the May 2020 letter I sent Cmsr. Kent; I hope you all have had a chance to read the Supplemental report, and the Letters I sent Cmsr. Kent in May, in July, and Sept 2020. Sgt. Willis let me know that my file had been added to the agenda for this meeting, but I do not know if these were included or not.

This first group of disruptive renters moved after 6 months, and another even more disruptive group of pot-smoking, profane young men on skateboards, with junk vehicles and expired tags, moved in soon after.

The letter I sent Cmsr. Kent in May was to document my concerns for what I had observed with the poor judgment and bad behavior by the Ormond Beach Police. In repeated incidents where the police responded to my calls about disruptions, where they were friendly and accommodating toward these young men, and in contrast, where they were antagonistic toward me, only making these bad situations worse.

Then on the Sunday evening of April 19, two OBPD officers, (OB445 Lloyd Stanley and Officer Myers) came to my door to say they were here to "help me". I believed them, and thought they were here to investigate the fire hazard as described in my May 2020 letter to Cmsr. Kent. Instead, I was arrested with police brutality, by these officers, who used false pretenses to lure me out of the security of my home, and then seized me in my own yard without a warrant, in what I believe was a violation of my Constitutional 4<sup>th</sup> Amendment rights.

I am a 61 year old woman, have never been arrested before, am a law abiding, tax paying homeowner in OB, who does not have a criminal or violent bone in my body. I try to do the right thing even when others turn away. That is why I am here before you today.

And it was not just the brutality of how I was arrested, but the enjoyment these Officers were having over having pirated me out of my home, as symbolized by the Pirate emblem they displayed on the visor inside the police car. They mocked me over my distress, played music and were moving to the music, as though this was fun for them. My mouth was dry, I asked for water, and they only drank their own water in front of me and gave me none. They even threatened to pepper spray me at one point, when I called out about the pain of my wrists and arms behind my back, in the metal handcuffs for hours. I still have numbness from my wrists to my thumbs to this day. I described this in my July 2020 letter to Cmsr. Kent, I hope you all have had a chance to read.



Following my June 29 Meeting with City Mgr. Shanahan and Chief Godfrey, I met with Lt. Elkins on July 2 to discuss my concerns. Most of the meeting with Lt. Elkins was a circular conversation where I became frustrated that he was not listening to me or fairly considering the issues I raised.

One example of this is where Lt. Elkins read from a complaint form he had filled out on my behalf, for the supplemental report I filed last November. Lt. Elkins noted in this complaint form that I thought Officer Ogle was rude. No where in my supplemental report did I say Officer Ogle was rude.

Lt. Elkins trivialized and misrepresented my concerns in his complaint form, in the same way Officer Ogle ridiculed me in his reporting and handling of that incident last Fall, making that bad situation, worse.

The July 31 letter sent by Chief Godfrey following my meeting with Lt. Elkins, was inaccurate and clearly prejudiced in its findings. Officer Ogle had omitted relevant details in his Incident report, that I noted in my Supplemental Report. I filed the Supplemental report 12 days following the Incident. Lt. Elkins falsely claimed this was outside the a 30 day acceptance period.

An example of the relevant details omitted by Officer Ogle was that I had called the police about a violent tirade by the disruptive renter, where he would charge at me and bang on my front door – so it was an important detail for Officer Ogle to omit from the report, that he had to restrain the young man from charging at me in an angry tirade, while Office Ogle was responding to the call.

Further from the July 31 letter, Lt. Elkins falsely stated that I alleged that Officer Ogle investigated his own complaint. What I did allege was that having Lt. Elkins conduct these investigations was like having the “fox guard the henhouse”. Lt. Elkins was put in charge of policing his own officers, and was clearly biased in the findings, and not acknowledging of my concerns.

Also in the July 31 letter sent by Chief Godfrey, the findings regarding my arrest on April 19 by Officer Lloyd Stanley are again clearly biased in that it was lawful and justified. These officers pirated me out of the safety of my home, on false pretenses, without a warrant, in violation of my Constitutional 4<sup>th</sup> Amendment rights. I am still haunted by the horror and indignities I suffered that night I was incarcerated.

The report Officer Stanley filed does not justify this violation, is full of fiction, and prejudicial statements. I did not resist arrest, I did not even know I was being arrested, or for what. I thought he had tripped over a tree root, and that was why he landed on top of me.

And further still have to pursue expungement of my record and bear the burden for additional expense to restore my good name.

These are not just my concerns, but a serious problem for reforms that need to be addressed and there is systemic denial of this by the Ormond Beach Police Dept. We cannot solve this problem until we admit there is a problem.

Chief Godfrey had indicated at our June 29 meeting at City Hall that my concerns could be addressed with policy changes; have any policy changes been proposed?

In closing, Having good judgment is not something that can be taught or made with policy changes – either police officers have decency and the ability to apply good judgment or not - it is chilling to think of Officer Lloyd Stanley going about with a gun and badge while he has shown he does not have good judgment and should not be a police officer. But again, we cannot solve this problem until we admit there is a problem.