

**VOLUSIA COUNTY SHERIFF'S OFFICE
INTERNAL AFFAIRS**

REPORT OF INVESTIGATION

REPORT NUMBER: IA-17-011

PERIOD COVERED: March 22, 2017
DATE REPORTED: April 03, 2017
SUBJECT(S) NAME: Deputy Garrett E. Morris #8068
INVESTIGATING OFFICERS: Detective James Gabriel #2201

BASIS FOR INVESTIGATION:

On Monday April 3, 2017 at approximately 0930 hours Sheriff Chitwood directed Detective Gabriel to meet with Ms. Catoria Stuart and listen to her concerns with regards to an arrest situation whereby there were allegations of excessive use of force.

Detective Gabriel conducted a sworn recorded interview with Ms. Stuart. The location of the interview was the DeLand Administration Office. Detective Tara Burke was also present. The following is a summary of that interview:

Ms. Stuart indicated that the incident was related to VCSO case number 170007766. She was arrested by Deputy Garrett Morris on March 22, 2017. The charges were criminal mischief and resisting an officer without violence. The arrest was the result of an investigation conducted by Deputy Morris. Deputy Morris learned that Ms. Stuart had kicked the side of a vehicle owned by Raquel Kimble. (This action resulted in damage in excess of \$200.00)

Ms. Stuart said that prior to being arrested for the above charges she was the victim of a very recent but separate incident in her neighborhood whereby she was the victim of a battery. (VCSO case number 170007844) She told Deputy Morris that she wanted him to investigate this

separate incident but she said he declined to do so. Ms. Stuart said that Deputy Morris was only concerned with resolving the incident that involved her son, Amani Stuart.

Ms. Stuart advised Deputy Morris said that she was under arrest but did not tell her why. She said she complied with his commands but he “roughed her up.” He did not strike her or curse at her but she alleged he used excessive physical force to arrest her. Ms. Stuart was adamant she did not resist arrest.

This interview of Ms. Stuart revealed two main allegations. The first allegation was Deputy Morris used excessive force during her arrest. He allegedly “roughed her up” physically by using excessive force. The second allegation was Deputy Morris refused to listen and/or take a report regarding the assault incident whereby a neighbor allegedly punched her in the face. *(See Tab D for Complete Transcript)*

OFFENSES:

This investigation is relevant to an alleged violation of Department Standards Directives and Volusia County Merit Rules and Regulations:

26.2.5 Neglect of duty offenses include any act, failure to act or instance wherein an employee ignored, paid no attention to, disregarded, failed to care for, give proper attention to or carry out the duties and responsibilities of their position whether through carelessness, oversight or neglect.

26.2.101 Excessive or Unnecessary Force Not Resulting in Injury - Deputies shall not use excessive force even though it does not result in injury to another.
(Violation subject up to a 5 day suspension.)

Volusia County Merit System Rules and Regulations 86-453. This violation may be sufficient grounds for disciplinary action ranging from oral reprimand to dismissal, depending on the seriousness of the offense and other circumstances related to the situation.

RE: (1) Willful neglect in the performance of the duties of the position to which the employee is assigned.

(13) Any conduct, on or off duty, that reflects unfavorably on the county as an employer.

INVESTIGATIVE SUMMARY:

On April 5, 2017, Chief Deputy John Creamer assigned the above incident to the Internal Affairs Unit. On April 6, 2017, Deputy Morris was served with a Notification of Internal Investigation along with a copy of his Officer Bill of Rights. This report details the internal affairs investigation conducted by Detective James Gabriel. *(See Tab –B for Official Correspondence)*

On April 3, 2017, Detective Gabriel reviewed all reports and witness statements pertaining to Ms. Stuart’s arrest. (VCSO 170007766 and VCSO 170007844) A review of these specific reports revealed that no civilians named in the reports actually witnessed her arrest by Deputy Morris. A review of Deputy Morris’ BWC footage revealed three unidentified individuals who were present when Ms. Stuart was arrested. A review of the BWC also showed that during her arrest she clearly resisted. She started to yell loudly and initially refused to be handcuffed. She was continually belligerent and resistant as Deputy Morris attempts to escort her to his patrol car. At one point she called Deputy Morris a “cracker” and said that she would file suit against him and the County. Additionally, Ms. Stuart stated she would contact the head of the NAACP.

While reviewing the BWC footage Detective Gabriel observed no evidence that Deputy Morris used any excessive force to affect the arrest. He used just enough physical force to handcuff Ms. Stuart and escort her to his patrol car. At no time did he curse or threaten her. A review of the BWC footage generated by Deputy Joshua Dagley showed that Deputy Dagley arrived as Deputy Morris was about to place Ms. Stuart into the back seat of his patrol car. Deputy Dagley was the first back up unit to arrive on the scene. The other VCSO units arrived after Ms. Stuart was secure in the back seat. This particular BWC footage revealed no evidence of excessive force being utilized.

An initial review of the above listed reports and BWC footage showed that while Deputy Morris was investigating the criminal mischief incident he was unaware that his suspect, Stuart had been battered at another location. He only learned of the battery after he had arrested Ms. Stuart for Criminal Mischief and Resisting Arrest w/o Violence.

On April 7, 2017 Detective Gabriel and Detective Burke canvassed Hummingbird St. in an attempt to contact any witnesses that were present during the arrest of Ms. Stuart. Contact was made with two residents who were present during the arrest. Mr. Agustin Martinez and Ms. Mendoza Vazquez consented to recorded interviews at their respective residences. Detective Gabriel conducted the interviews. Detective Burke was also present. Business cards were also left at many of the other resident's apartments.

Agustin Martinez

On April 7, 2017, Detective Gabriel conducted a sworn recorded interview with Mr. Agustin Martinez. Detective Tara Burke was also present. The location of the interview was 121 Hummingbird St. Apt. C Deltona, Florida. The following is a summary of that interview:

Mr. Martinez advised he was home on the afternoon of March 22, 2017. Detective Gabriel asked him if he saw an arrest take place on that date. He advised he observed a VCSO Deputy arrest a black female that resided across the street from his residence. He was also asked if he knew her and his reply was negative.

Mr. Martinez said as the deputy was arresting the black female she was giving the deputy a hard time. He saw she was in handcuffs and fighting him and refusing to go with him or answer any questions. Detective Gabriel asked Mr. Martinez if he thought the female was resisting. His reply was affirmative. He additionally said that "she was fighting him." Detective Gabriel asked Mr. Martinez if the deputy struck her? His reply was negative. He said the deputy was actually being a "gentleman." Mr. Martinez reiterated that the female continued to resist and struggle with the deputy and the deputy appeared to be doing his job. He saw no evidence the deputy abused her in any way. *(See Tab E for Complete Transcript)*

Mendoza Vazquez

On April 7, 2017, Detective Gabriel conducted a sworn recorded interview with Mrs. Mendoza Vazquez. Detective Tara Burke was also present. The location of the interview was 122 Hummingbird St. Apt. A Deltona, Florida. The following is a summary of that interview:

Ms. Vazquez advised she was home on the afternoon of March 22, 2017. Detective Gabriel asked her if she saw an arrest take place on that date. She advised she observed a VCSO Deputy arrest a black female that resided across the street from her residence. Detective Gabriel showed her a photograph of Ms. Catoria Stuart. She recognized her as the black female that was arrested; however she did not know her name.

Ms. Vazquez advised she saw the deputy place the handcuffs on the black female. Ms. Vazquez said the female was screaming quite a bit. Deputy Gabriel asked also her if the deputy pushed her, roughed her up, or cursed at her. Her reply was negative. *(See Tab F for Complete Transcript)*

Deputy Joshua Dagley

On April 19, 2017, Detective Gabriel conducted a sworn recorded interview with Deputy Joshua Dagley. The location of the interview was the VCSO DeLand Administrative Office. The following is a summary of that interview:

Deputy Dagley has served with the Sheriff's Office since February 2015. He is currently assigned to District Four Patrol. He has no other law enforcement experience.

Detective Gabriel asked Deputy Dagley if he was working on March 22, 2017. He advised he was indeed working on that date. He was asked if he was dispatched to 121 Hummingbird St. Apt. D Deltona. He answered affirmative. He said he responded from I-4 and the call was in reference to a disturbance. Deputy Morris was the first unit to arrive on the scene. While Deputy Dagley was responding he heard Deputy Morris make the statement "step it up." Deputy Dagley then advised that he increased his response level to Code 3.

Upon his arrival, Deputy Dagley stated he observed Deputy Morris to be standing in the roadway next to his patrol car. A black female appeared to be standing next to Deputy Morris. She appeared to be in custody but not yet handcuffed. Deputy Dagley stated the black female appeared to be “pinned in” against the car as if she were resisting. Deputy Dagley said he assisted Deputy Morris by opening Deputy Morris’ patrol car doors so the black female could be placed into the back seat. It was his opinion she was not complying with attempts by Deputy Dagley to handcuff her and she basically resisted arrest.

According to Deputy Dagley he spoke to an unidentified male neighbor who witnessed the arrest. It was his opinion the black female resisted arrest. The witness even considered intervening and helping Deputy Morris.

Detective Gabriel asked Deputy Dagley if he observed Deputy Morris to utilize any excessive force toward the black female. His reply was negative. Deputy Dagley was also asked if Deputy Morris used any improper language toward her. Again his reply was negative. *(See Tab G for Complete Transcript)*

Deputy Garrett Morris

On April 27, 2017, Detective Gabriel and Detective Burke conducted a sworn recorded interview with Deputy Garrett Morris. Also present was Ms. Nancy R. Jones. The location of the interview was the offices of VCSO DeLand Administration. The following is a summary of that interview:

Deputy Morris has served with the Sheriff’s Office for four years. He is currently assigned to District Four Patrol. Deputy Morris reported that he has no prior law enforcement experience.

According to Deputy Morris he was working on March 22, 2017. He stated he was dispatched to a domestic disturbance at 141 Hummingbird St. Apt. D which was an incorrect address. He then learned from a resident that the disturbance actually occurred at 121 Hummingbird St. Apt. D. Deputy Morris advised he was then directed by Central Dispatch to meet with Ms. Stuart’s son, at the Video Game Galaxy located at 894 Saxon Blvd. Deltona. He subsequently met with Amani Stuart and collected information from several other witnesses.

Deputy Morris stated his investigation revealed that during the initial disturbance at 121 Hummingbird St. Apt. D Ms. Catoria Stuart damaged a vehicle by kicking it and also pulled the occupants hair. The occupant (Raquel Kimble) declined to prosecute for the physical act perpetrated against her but wanted to prosecute Ms. Stuart for the criminal mischief done to her car.

While conducting the investigation on Saxon Blvd. Deputy Morris received another call there was another disturbance in progress at Ms. Catoria Stuart's residence. Deputy Morris therefore responded and he stated when he arrived he intended to arrest Ms. Stuart for criminal mischief.

Deputy Morris stated he had earlier looked Ms. Stuart up in DAVID and knew what she looked like. Upon arrival, he recognized her and asked her to come to him since three other people were standing near her. He therefore approached her and attempted to arrest her. He instructed her to put her hands behind her back but **she did not comply**. When he grabbed her wrist she pulled away from him. He stated he eventually handcuffed her but she continued to struggle and call him names such as "cracker." Detective Gabriel asked him if he roughed her up or called her any names. His reply was negative.

According to Deputy Morris, Deputy Dagley arrived as he was attempting to place her in his back seat. Deputy Dagley then assisted him by unlocking his patrol car doors. Deputy Dagley then helped Deputy Morris place her into the back seat of Deputy Morris' patrol car.

Detective Gabriel asked Deputy Morris if Ms. Stuart ever mentioned to him that she had recently been battered. He advised she mentioned it to him only when he was transporting her to the District Office. However, as she informed him of the battery she was also yelling and cursing at him. Deputy Morris did not think it was feasible to investigate her complaint under those conditions. Deputy Morris advised he was dispatched to her residence the following day and he conducted an investigation regarding the alleged battery. At the conclusion of this investigation Ms. Christina Holland was arrested for battery.

Detective Gabriel concluded the interview by asking Deputy Morris if he had used excessive force during the arrest of Ms. Stuart. His reply was negative. Detective Gabriel asked Deputy Morris if he had cursed or used any racial epithets against her. His reply was negative.

Deputy Morris was asked if he violated the following policies:

26.2.5 Neglect of Duty **NO**

26.2.68 Excessive or unnecessary Force Not Resulting in Injury **NO**

Volusia County Merit System Rules and Regulations 86-453:

(1) Willful neglect in the performance of duties of the position **NO**

to which the employee is assigned.

(13) Any conduct, on or off duty, that reflects unfavorably on the county **NO**

as an employer.

(See Tab H for Complete Transcript)

EXECUTIVE SUMMARY:

On March 22, 2017, Deputy Garrett Morris arrested Ms. Catoria Stuart for criminal mischief and resisting an officer without violence. Just prior to effecting this arrest Ms. Stuart was battered by a neighbor, Christina Holland. (VCSO -170007844) This battery investigation and subsequent arrest of Christina Holland was handled on March 23, 2017 by Deputy Garrett Morris.

On Monday April 3, 2017, Ms. Stuart came to the Volusia County Sheriff's Administrative Offices and made sworn allegations against Deputy Morris. Her first allegation was he used excessive force when he arrested her for criminal mischief. Her second allegation was he refused to investigate the incident whereby her neighbor, Christina Holland struck her in the face with a closed fist.

Detective Gabriel reviewed all of the BWC footage pertaining to this investigation. This BWC footage review revealed that Deputy Morris conducted himself properly and did not use

excessive force during the arrest of Ms. Stuart. Two witnesses that resided on Hummingbird St. also provided sworn recorded statements pertaining to the arrest. Each of these witnesses stated Deputy Morris conducted himself properly. They saw no evidence of excessive force being utilized. In fact, the two witnesses stated the black female (Stuart) resisted arrest.

According to Deputy Morris, when he was originally dispatched to the disturbance on Hummingbird St. Deltona he could not locate the original reporting party, Ms. Catoria Stuart. He was then redirected by VCSO central dispatch to respond to the Video Game Galaxy on Saxon Blvd. and contact Ms. Catoria's son, Amani Stuart. Deputy Morris then conducted a criminal mischief investigation whereby he collected probable cause information to arrest Ms. Catoria Stuart for Criminal Mischief.

Deputy Morris further advised while he was investigating the criminal mischief incident he was dispatched to a report of another disturbance at 121 Hummingbird St. Apt. D. Deltona, FL. Upon arrival, Deputy Morris made contact with Ms. Catoria Stuart whom he identified from her DAVID photo. According to Deputy Morris he attempted to arrest her for criminal mischief and she became irate and resisted arrest. He was not aware of the recent incident whereby Ms. Stuart was reportedly struck in the face by a neighbor. He only learned of this incident *after* he arrested her for the criminal mischief. After her arrest she continued to act belligerent and curse at him. He stated it was not feasible to look into this separate battery investigation at that time. (Note: Deputy Morris followed up the battery investigation listed above and arrested Ms. Christina Holland on March 23, 2017.) (VCSO 170007844)

Conclusion:

After review, the Sheriff determined the violation of the below listed department and county policies to be:

26.2.5 Neglect of duty offenses include any act, failure to act or instance wherein an employee ignored, paid no attention to, disregarded, failed to care for, give proper attention to or carry out the duties and responsibilities of their position whether through carelessness, oversight or neglect. **Unfounded**

26.2.101 Excessive or Unnecessary Force Not Resulting in Injury - **Unfounded**
Deputies shall not use excessive force even though it does not result in injury to another.
(Violation subject up to a 5 day suspension.)

Volusia County Merit System Rules and Regulations 86-453

RE: (1) Willful neglect in the performance of the duties of the position to which the employee is assigned. **Unfounded**

(13) Any conduct, on or off duty, that reflects unfavorably on the county as an employer. **Unfounded**

EXHIBITS:

A. Report of Investigation

B. Advisement of Administrative Oath/Perjury Warning/Garrity Warning/N.O.I.

C. Incident Reports and statements

D. Official Transcript of Catoria Stuart

E. Official Transcript of Agustin Martinez

F. Official Transcript of Mendoza Vazquez

G. Official Transcript of Deputy Joshua Dagley

H. Official Transcript of Deputy Garrett Morris

I. Miscellaneous Documents

J. Digital Media

WITNESSES

Agustin Martinez

121 Hummingbird St. Apt. C

Deltona, FL. 32725

386/957/2314

Mendoza Vazquez

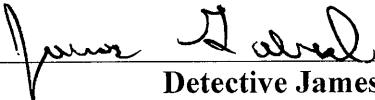
122 Hummingbird St. Apt. A

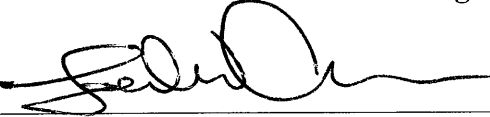
Deltona, FL. 32725

386/479/3666

Deputy Joshua Dagley
79 S. Charles Beall Blvd.
Debary, FL. 32713
386/668/3834

I, the undersigned, do hereby swear, under the penalty of perjury, that, to the best of my personal knowledge, information, and belief, I have not knowingly or willfully deprived, or allowed another to deprive, the suspect of the investigation of any rights contained in ss. 112.532 and 112.533, Florida Statutes.

DETECTIVE:  DATE: 8/11/17
Detective James Gabriel
Internal Affairs Investigator

APPROVED BY:  DATE: 08/17/17
Chief Deputy John Creamer
SHERIFF MICHAEL J. CHITWOOD
VOLUSIA COUNTY FLORIDA