

**DAYTONA BEACH POLICE DEPARTMENT  
OFFICE OF PROFESSIONAL STANDARDS**

INTERNAL INVESTIGATIVE REPORT  
IA2015-001

April 10, 2015

**Investigator(s)**

James Chirco, Sergeant, Office of Professional Standards  
Thomas Monaco, Detective, Office of Professional Standards

**Employee(s)**

Frank Geremia, Sergeant , Full Time

**Complainant(s)**

Chief Michael Chitwood

**Allegation(s)**

- **200.13** Every employee and member shall be required to establish and maintain a working knowledge of the Federal, State and local laws and ordinances that he/she is charged with enforcing. Every member and employee is expected to observe and obey laws and ordinances, and the rules, orders and directives of the department.
  
- **202.5** Each employee shall be accountable for the effective and efficient execution of his/her assigned duties and the use of, or failure to use the authority delegated to him/her.

# Daytona Beach Police Department

## Office of Professional Standards

TO: Michael J. Chitwood, Chief of Police

FROM: Thomas Monaco, Detective, Office of Professional Standards

SUBJECT: **Project No: 102-IA2015-001**

DATE: March 23, 2015

### SYNOPSIS

On 02/22/15, Lieutenant Jennifer Dwan authored a memorandum to Chief Michael Chitwood in reference to an incident that occurred on 02/20/15 at 377 North Seneca Street. The memorandum was more specifically directed at Sergeant Frank Geremia and several alleged policy violations discovered by Lieutenant Jennifer Dwan in reference to this incident.

Sergeant Geremia responded to 377 North Seneca Street as the supervisor on duty that night. Upon arrival, Officer Ellington told Sergeant Geremia that he never saw the defendant operating the vehicle and did not think that he had probable cause for an arrest for DWLS. Sergeant Geremia then told Officer Ellington that it was ok because he was in "actual physical control of the vehicle" and then instructed Officer Ellington how to write the charging affidavit. During the investigation, Sergeant Geremia states that the defendant is "going to jail for something." Officer Ellington states that he was uncomfortable making the arrest but did not say anything to Sergeant Geremia out of fear of being insubordinate.

Lieutenant Dwan then met with Sergeant Geremia to inform him that there was no probable cause for the arrest based on the totality of the circumstances. Sergeant Geremia disagreed, based on a legal bulletin that he saw come out on city email in the past, but could not provide to Lieutenant Dwan.

Sergeant Geremia then informed Lieutenant Dwan that it was the officers on scene that wanted the defendant arrested "so badly that they needed to find a way to arrest him." After reviewing all AXON videos, this detective could not find any evidence that this was the case.

Lieutenant Jennifer Dwan (Witness Officer)

On 03/17/15 at approximately 1600 hours, Lieutenant Jennifer Dwan responded to the Office of Professional Standards for the purposes of an audio recorded interview. Lieutenant Dwan signed and stated that she understood the internal investigation witness notification form. Lt. Dwan stated that the memorandum she authored was a result of the unarrest that occurred two days prior and Sergeant Geremia's failure to acknowledge certain traffic laws and supervise his officers. Lt. Dwan stated that Sergeant Geremia told her that Officer Ellington was "taking forever" on his arrest for DWLS. Lt. Dwan acknowledged this, but did not know the entire situation at that point. Officer Williamson then approached Lt. Dwan and told her that Officer Ellington was taking so long with the arrest because he did not feel comfortable with it. Officer Ellington then met Lt. Dwan at 129 Valor Boulevard to discuss the arrest. Officer Ellington was confused to the reason as to why he was taking the defendant to jail if he did not see him driving, but he was just obeying orders. Lt. Dwan then ordered the unarrest of the defendant due to the totality of the circumstances. Lt. Dwan contacted Sergeant Geremia to notify him of the unarrest. Sergeant Geremia stated that he thought there was probable cause for the arrest based on the fact that the defendant was in actual physical control of the vehicle. Sergeant Geremia then stated he was on his way to 129 Valor Boulevard to discuss this. Sergeant Geremia told Lt. Dwan that there was case law that supports the arrest, which he never produced. Sergeant Geremia stated that he found the case law bulletin, but misunderstood it. Sergeant Geremia stated that the officers wanted to take the defendant to jail so badly that he allowed it. Lt. Dwan stated that she reviewed all AXON videos and did not see any evidence that the officers wanted to take the defendant to jail.

Officer Kemonji Ellington (Witness Officer)

On 03/17/15 at approximately 1630 hours, Officer Kemonji Ellington responded to the Office of Professional Standards for the purposes of an audio recorded statement. Officer Ellington signed and stated that he understood the internal investigation witness notification form. Officer Ellington stated that he responded to a call at 377 North Seneca Street and saw a vehicle parked in the driveway occupied by a black male. The male then exited the vehicle and ran inside the residence. Sergeant Geremia arrived on scene when Officer Ellington stated that he was "about to let him go." (defendant). Sergeant Geremia then stated that they were going to find a reason to take him to jail. Officer Ellington stated that he did not feel comfortable with the arrest but did not want to be insubordinate. Officer Ellington brought his concern to Sergeant Geremia, who told him that he would "tell him how to write it." Sergeant Geremia also told Officer Ellington that there was case law to support the arrest. Sergeant Geremia then came out to review Officer Ellington's report and actually added some things before signing it. Lieutenant Dwan then reviewed the report and found no probable cause. Officer Ellington stated that he felt that the defendant was arrested primarily due to the fact that Sergeant Geremia wanted him arrested. Officer Ellington stated that at

no time did any officer feel compelled to make the arrest, contrary to what Sergeant Geremia stated to Lieutenant Dwan.

Officer Nicholas Sault (Witness Officer)

On 03/17/15 at approximately 1700 hours, Officer Nicholas Sault responded to the Office of Professional Standards for the purposes of an audio recorded statement. Officer Sault signed and stated that he understood the internal investigation witness notification form. Officer Sault responded as a backup unit to Officer Ellington at 377 North Seneca Street. Officer Sault stated that Sergeant Geremia arrived on scene and was asking what was going on. Officer Sault stated that the defendant seemed to be "getting to under Sergeant Geremia's skin", who stated "I don't care what we arrest this guy for, but we have to arrest him." Officer Sault stated that he felt that the defendant was arrested primarily due to the fact that Sergeant Geremia wanted him arrested. Officer Sault stated that at no time did any officer feel compelled to make the arrest, contrary to what Sergeant Geremia stated to Lieutenant Dwan.

Officer Amber Williamson (Witness Officer)

On 03/30/15 at approximately 1800 hours, Officer Amber Williamson responded to the Office of Professional Standards for the purposes of an audio recorded statement. Officer Williamson signed and stated that she understood the internal investigation witness notification form. Officer Williamson stated that she responded as a backup officer that evening. Officer Williamson stated that she spoke to Officer Ellington while on scene to see if they had any criminal charges. Officer Ellington stated that he was waiting for Sergeant Geremia to investigate and make a decision. Sergeant Geremia then stated to put the defendant in the patrol and "get him out of here, he's going to jail for something." Officer Williamson stated that she did not feel that there was probable cause for arrest. Officer Williamson stated that Officer Ellington told her that he was uncomfortable making the arrest and did not know how to "write it up" due to the fact that he did not feel there was probable cause for arrest. Officer Williamson stated that she told Sergeant Geremia that they did not feel comfortable making the arrest. Sergeant Geremia stated that it was a good arrest because of past case law regarding DWLS on private property. Officer Williamson stated that she notified Lieutenant Dwan about the arrest, who then handled it. Officer Williamson stated that she felt that the arrest was made that night because Sergeant Geremia wanted to make the arrest. Officer Williamson stated that at no time did officers on scene want to make the arrest. Officer Williamson also stated that Sergeant Geremia's lack of the knowledge of laws resulted in this incident and ultimately the unarrest. Officer Williamson stated that the officers on the shift have no faith in Sergeant Geremia's judgment and leadership due to several incident like this. Furthermore, officers have contacted Lieutenant Dwan and Sergeant Fishpaugh, on her days off, for guidance rather than going to the on duty Sergeant, Frank Geremia.

Sergeant Frank Geremia (Subject Officer)

On 04/09/15 at approximately 1600 hours, Sergeant Frank Geremia responded to the Office of Professional Standards for the purposes of an audio recorded statement. Sergeant Geremia signed and stated that he understood the internal investigation witness notification form. Sergeant Geremia stated that he was called to the scene that evening by a patrol officer in reference to "some type of stolen vehicle investigation." During their investigation, it was determined that the vehicle was not stolen. Sergeant Geremia stated that he did not order the release of the defendant due to the fact that there was probable cause for DWLS (habitual). Sergeant Geremia stated that nobody needed to actually see the defendant operating the vehicle for there to be probable cause for arrest. Sergeant Geremia stated that because it was a felony, that changed things. He stated that they had "other corroborating evidence" that lead to probable cause. Sergeant Geremia kept referring to a case law that supported the arrest. Sergeant Geremia stated that he did say "this guy is going to jail for something." Sergeant Geremia stated that he was notified of the unarrest by Lieutenant Dwan due to the fact that there was no probable cause for arrest. Sergeant Geremia stated that he disagreed with her, citing case law, which he never provided. Sergeant Geremia stated that Officer Ellington said "something to effect of" he didn't feel comfortable making the arrest or felt he didn't have probable cause for arrest. Sergeant Geremia attempted to explain the elements of the crime to Officer Ellington and even entered his patrol vehicle to edit the charging affidavit and make sure the elements of the crime were documented.

Investigative Summary

On 02/20/15, officers responded to 377 North Seneca Street in reference to a possible stolen vehicle investigation. The suspect was secured at that time. Sergeant Geremia arrived on scene to investigate the incident with his officers. Shortly after arriving, it was determined that the vehicle was not stolen. Sergeant Geremia then ordered the arrest of the suspect for DWLS (habitual). Officer Ellington and other officers told Sergeant Geremia that they did not see the suspect operating the vehicle, only sitting in the private driveway of the residence. Sergeant Geremia stated that it was a good arrest based on case law, which he has not provided to this date. Sergeant Geremia stated that because it was a felony, that changes everything. He stated that he has "corroborating evidence" which assisted him with the probable cause for arrest. Sergeant Geremia stated that the victim, who was not on scene and did not provide a statement, stated that he gave the vehicle to the defendant. The victim actually gave the vehicle to somebody named "purple," who was not identified. The employees of the car lot stated that they were tracking the vehicle for several hours, but could not identify a driver. The defendant did not have keys to the vehicle on his person at the time of arrest and never admitted to operating the

vehicle. After being notified of the arrest sometime later, Lieutenant Dwan ordered the unarrest of the defendant, based on a lack of probable cause. Sergeant Geremia stated that it was the officers on scene who wanted to make the arrest, when in fact it was him. Officers relayed their concern for probable cause for arrest, but were overruled by Sergeant Geremia. Sergeant Geremia's lack of knowledge of the law and failure to properly supervise his officers resulted in the arrest and unarrest of the defendant that evening.

Findings:

These are the findings of the Office of Professional Standards regarding the allegations against Sergeant Frank Geremia:

- 1) **Department Directive 200.13** Every employee and member shall be required to establish and maintain a working knowledge of the Federal, State and local laws and ordinances that he/she is charged with enforcing. Every member and employee is expected to observe and obey laws and ordinances, and the rules, orders and directives of the department.

**SUSTAINED**

- 2) **Department Directive 202.5** Each employee shall be accountable for the effective and efficient execution of his/her assigned duties and the use of, or failure to use the authority delegated to him/her.

**SUSTAINED**

## WITNESSES/INTERVIEWS

The following individuals were interviewed concerning this investigation:

- Lieutenant Jennifer Dwan (Witness Officer)
- Officer Kemonji Ellington (Witness Officer)
- Officer Nicholas Sault (Witness Officer)
- Officer Amber Williamson (Witness Officer)
- Sergeant Frank Geremia (Subject Officer)

## EXHIBITS

- Memoranda
- CAD Reports
- AXON Videos
- Recorded audio interviews