

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

REPORT OF INVESTIGATION

REPORT NUMBER: RQ #08-017

PERIOD COVERED: May 15, 2008

DATE REPORTED: May 15, 2008

SUBJECT(S) NAME: Deputy David Higgins #7034

INVESTIGATING OFFICER: Sergeant Timothy Morgan

BASIS FOR INVESTIGATION:

On May 15, 2008, Chief Lee provided Lieutenant Goggin and Sergeant Morgan with a copy of a use of force report composed by Sergeant Barnard, which involved Deputy Higgins. Contained within the Memorandum was a brief synopsis of the events that occurred on May 5, 2008.

On May 5, 2008, Deputy Higgins responded to [REDACTED] Deltona, Florida in reference to a domestic disturbance. Upon arrival Deputy Higgins contacted the victim Scott Knudsen, who advised that his wife Mary Knudsen slammed the rear hatch door of their vehicle on him while he was attempting to retrieve property from the vehicle. Deputy Higgins then made contact with Mary Knudsen to obtain her version of the incident, but she refused to speak with Deputy Higgins. Mary Knudsen attempted to walk away toward an open garage. Deputy Higgins ordered Knudsen to stop, but she failed to obey his verbal commands. Deputy Higgins grabbed Knudsen's wrist in an attempt to stop her, but she (Knudsen) started to pull away, and shake violently in order to escape Deputy Higgins' grasp. Deputy Higgins then took Knudsen to the ground in order to gain control over her, and she was then handcuffed. When Knudsen was taken to the ground, Knudsen's nose struck the concrete located in the driveway, which caused a laceration to Knudsen's nose. Knudsen, after being handcuffed, also complained of neck and back injuries. Knudsen was transported to Florida Hospital located at 1055 Saxon Blvd., Orange City, to be treated for her injuries. Knudsen was subsequently arrested for battery/domestic violence and resisting without violence.

Sergeant Barnard responded to the scene and spoke to Scott Knudsen. Scott Knudsen advised that he did not witness the confrontation between Mary Knudsen and Deputy Higgins. Sergeant Barnard then spoke to the back-up officer, Deputy Shirah, who advised that the confrontation occurred prior to his arrival.

Sergeant Barnard then responded to the hospital to speak with Mary Knudsen. Mary Knudsen advised that she did not resist arrest, however, she did hear Deputy Higgins advise her to stop. Mary Knudsen stated that the only reason she didn't stop was because of anxiety, and she felt the need to sit down in a chair located in the garage. Mary Knudsen also admitted to pulling away from Deputy Higgins once he (Deputy Higgins) grabbed her. Mary Knudsen stated she was afraid of Deputy Higgins because she dealt with him (Deputy Higgins) on several other calls at her residence.

Mary Knudsen sustained a laceration to her nose during the struggle that required four stitches and an abrasion on her left arm. Mary Knudsen also complained of neck, back and shoulder pain. Mary Knudsen was treated and diagnosed with a broken nose. The hospital, while treating Knudsen, did not discover any additional injuries.

(Supervisor's Inquiry reference to use of force #054M094.08 was made part of this investigative file Tab-B)

INVESTIGATIVE SUMMARY:

On May 15, 2008, Sergeant Morgan and Lieutenant Goggin reviewed all documents that were composed during this incident.

On May 15, 2008, Sergeant Morgan and Lieutenant Goggin conducted a canvass of the neighborhood concentrated within the 1200 hundred block of Feather Dr.

May 15, 2008, 1258 Feather Drive--no answer at the door.

May 15, 2008, 1259 Feather Drive--no answer at the door.

May 15, 2008, 1250 Feather Drive--no answer at the door.

May 15, 2008, 1236 Feather Drive--contact was made with Clara Reinhardt, DOB: 01-05-1947. Reinhardt advised she saw two marked patrol vehicles and Mary Knudsen in handcuffs, but she did not witness the altercation between Deputy Higgins and Mrs. Knudsen. She (Reinhardt) stated she heard the deputy state "You should have stopped", and Knudsen responded, "I just wanted to sit down".

May 15, 2008, 2080 Deborah Terrace--contact was made with Orlando Valentino. Valentino advised he did not witness the incident that occurred on May 5, 2008.

May 15, 2008, 1230 Feather Drive--contact was made with Ray Majewski and Pete Majewski. Both advised they did not witness the incident, but believed that the male of the residence located at [REDACTED] was a firefighter.

On May 16, 2008, Lieutenant Goggin attempted to contact witness, Ms. Judith Bird, via phone at (407) 789-2879, but met with negative results.

On May 19, 2008, Sergeant Morgan audited the calls for service at [REDACTED] Deltona, Florida covering the period of January 1, 2006 through May 15, 2008. There were a total of seven calls involving Mr. and Mrs. Knudsen, five of which were disturbance calls, and two that were suicide attempts. Deputy Higgins responded to Mrs. Knudsen's residence on four occasions, three of which Deputy Higgins was the primary unit, and once as a back-up unit. Deputy Higgins' interactions with Mrs. Knudsen resulted in her being Baker Acted once and arrested once. The audit also revealed that Mrs. Knudsen was Baker Acted a total of three times by three different deputies.

According to Report # 07-8689 composed by Deputy Mark Sias on March 15, 2008, Deputy Sias was dispatched to [REDACTED] in reference to an attempted suicide involving Mary Knudsen. Upon his arrival, he observed other deputies that arrived on scene prior to him (Sias) trying to secure Mrs. Knudsen, who was actively resisting the deputies. Mrs. Knudsen's actions during that incident resulted in her (Knudsen) being Baker Acted.

(CAD printouts and Report #07-8689 were made part of this investigative file Tab-B)

On May 19, 2008, Sergeant Morgan and Lieutenant Goggin attempted to contact Ms. Bird at 1250 Feather Drive, Deltona. Ms. Bird was not at home; Sergeant Morgan left a business card with contact numbers for her (Mrs. Bird) to call.

On May 19, 2008, Sergeant Morgan and Lieutenant Goggin made contact with Joseph Robinson at 1266 Feather Drive. Mr. Robinson advised that he did not witness the incident at Mrs. Knudsen's residence.

On May 19, 2008, Sergeant Morgan and Lieutenant Goggin conducted an additional neighborhood canvass at 1259 and 1258 Feather Drive, but met with negative results.

On May 21, 2008, Sergeant Morgan attempted to make contact with Ms. Bird at 1250 Feather Drive. Ms. Bird was not at home, however the business card that was left on the door on May 19, 2008, had been removed from the door. Sergeant Morgan left a second business card at the residence.

On May 23, 2008, Sergeant Morgan made telephone contact with Scott Knudsen. Mr. Knudsen advised that he did not witness the altercation between his wife and Deputy Higgins. Mr. Knudsen stated that he knows Deputy Higgins because he (Deputy Higgins) has been at his residence in the past for calls for service. Mr. Knudsen advised that he doesn't know Deputy Higgins outside of work. Mr. Knudsen stated that he (Deputy Higgins) was professional while dealing with him.

On May 23, 2008, Sergeant Morgan contacted and obtained a sworn statement from Judith Bird at 1250 Feather Dr. Deltona, FL.

Judith Bird

Judith Bird stated that on May 5, 2008, she heard Scott and Mary Knudsen arguing outside of their residence. Bird advised that soon after a Volusia County Deputy arrived at their residence,

Mary Knudsen knocked at her (Bird's) back door and provided Bird with her (Knudsen's) attorney's phone number. Bird stated that the deputy, who was later identified as Deputy Higgins, was standing behind Mary Knudsen while she was at the door. After advising her (Bird) to contact her (Mrs. Knudsen's) attorney, the deputy and Mary Knudsen walked back toward Mary Knudsen's residence. Bird advised that soon after they left her residence, she (Bird) heard screaming outside. This prompted her to look out of the window. Bird stated that when she looked out of the window, Mary Knudsen was handcuffed lying on the ground, and the deputy was standing over top of Mary Knudsen. Bird stated that she did not actually witness the deputy and Mary Knudsen's confrontation from start to finish; she only observed Mary Knudsen handcuffed on the ground with the deputy standing over her. Bird advised she went outside, she noticed blood on the concrete, and realized that Mary Knudsen was bleeding. Bird stated Deltona Fire and Rescue arrived on scene and treated Mary Knudsen's injury.

Bird advised that she has discussed the incident with Mary Knudsen, and Mary Knudsen advised her that she (Mary Knudsen) told the deputy that she (Mary Knudsen) needed to sit down because she was sick, and she attempted to go to the garage of the residence to sit down. Bird advised that Mary Knudsen never mentioned that she yelled or pulled away from the deputy.

Bird advised that there were no other neighbors present during this incident, and that only Deputy Higgins was on scene during Mary Knudsen's arrest.

(See Transcript Tab-D)

On ^{May} June 12, 2008, Sergeant Morgan and Lieutenant Goggin obtained a sworn statement from Deputy David Higgins at the Volusia County Sheriff's Office in Deland.

Deputy David Higgins

Deputy Higgins stated on May 5, 2008, he was dispatched to [REDACTED] in Deltona in reference to a disturbance. Deputy Higgins stated upon his arrival he observed Mrs. Mary Knudsen speaking with the next-door neighbor at the neighbor's side door. Deputy Higgins advised that he then made contact with Mr. Scott Knudsen who was inside of the residence located at [REDACTED] after obtaining information from Scott Knudsen in reference to the disturbance. Deputy Higgins advised he contacted Mrs. Knudsen outside to obtain her version of the disturbance.

Deputy Higgins stated that he contacted Mrs. Knudsen at the neighbor's residence by the side door entry of the house. Deputy Higgins advised that he felt after speaking with Mr. Knudsen that Mrs. Knudsen was the primary aggressor in this disturbance, but wanted to obtain her (Mrs. Knudsen's) version of the disturbance also. Deputy Higgins stated that he had responded to Mr. and Mrs. Knudsen's residence in the past on three or four occasions in reference to the same type of calls for service, and there were no arrests made. Deputy Higgins advised that Mr. and Mrs. Knudsen are currently going through a divorce and have called the Sheriff's Office in the past on each other.

Deputy Higgins stated that he asked Mrs. Knudsen to return to her (Mrs. Knudsen's) residence so he can speak to her in reference to the incident. Deputy Higgins advised, while walking toward Mrs. Knudsen's residence, she (Mrs. Knudsen) said she wanted to go into the garage area. Deputy Higgins stated that he told Mrs. Knudsen that she could not go into the garage and wanted her to stay outside of the residence while they were talking. He (Deputy Higgins) advised that Mrs. Knudsen stated she was going into the garage and started to walk towards the open garage. Deputy Higgins stated that he reached out and grabbed Mrs. Knudsen's arm and ordered her to stay outside, at which time Mrs. Knudsen pulled her arm away from Deputy Higgins and attempted to walk towards the garage. Deputy Higgins stated, "*I grabbed her other arm and she went like that, "stop" you know, put my foot out and put her down. That's when she hit her face right on the pavement. I wasn't trying to. It wasn't a body slam; it wasn't anything. I was trying to just get her to stop and put her down*"? Deputy Higgins advised, once they went to the ground that he then handcuffed her. Deputy Higgins stated that due to his and other deputies past encounters with Mrs. Knudsen, he did not want her to enter the garage for safety reason, while he was attempting to interview her in reference to the disturbance.

Deputy Higgins stated that when Mrs. Knudsen went to the ground, he noticed that Mrs. Knudsen was injured. He immediately called his supervisor and rescue to treat her (Mrs. Knudsen's) injuries. Deputy Higgins stated that upon taking Mrs. Knudsen to the ground, he did not fall on top of her, and that due to the position of the driveway, Mrs. Knudsen struck her face on the concrete, and that is why she was injured.

Deputy Higgins stated that he did not know Mr. Knudsen outside of work, and added that he only dealt with Mr. Knudsen during calls for service. Deputy Higgins stated he has never socialized with Mr. Knudsen outside the scope of his (deputy Higgins) duties. (*See Tab-C*)

- EXHIBIT(S):**
- A) Supervisor Inquiry #050M094.08
 - B) Interview with Deputy David Higgins
 - C) Interview with Judith Bird
 - D) VCSO report #07-8689, 08-11733, and 707 Charging Affidavit #08-15251 / CAD Printouts
 - E) Compact Disc sworn recordings, Deputy Higgins and Mrs. Judith Bird


WITNESSES:

Judith Bird
1250 Feather Dr
Deltona, FL 32128

David Higgins
Volusia County Sheriff's Office

I, the undersigned, do hereby swear, under 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.

INVESTIGATOR: SGT T. MORGAN  DATE: 07/25/08
Sergeant Timothy Morgan

APPROVED BY:  DATE: 9/29/08
Chief Deputy William R. Lee
SHERIFF BEN F. JOHNSON
VOLUSIA COUNTY FLORIDA