

February 20, 2025

Patricia Smith
City Attorney
City of Palm Bay
120 Malabar Road SE
Palm Bay, FL 32907

Re: Palm Bay Police Investigation Report – City of Palm Bay

Dear Ms. Smith:

Please accept this as our Investigation Report (the “Report”) regarding Deputy Chief, Lance Fisher’s, allegations concerning the Palm Bay Police Department, particularly those against the Chief of Police, Mariano Augello. The allegations arise out of a May 10, 2024, complaint made internally by Lance Fisher, as well as comments made by Mr. Fisher at a September 5, 2024, council meeting.

I. Scope

We were requested to review the evidence and allegations that gave rise to Mr. Fisher’s complaint and to ascertain whether Chief Augello had improperly utilized Palm Bay Police Department resources, for his own personal benefit, by inappropriately directing Palm Bay Police Department resources and personnel – outside the scope of his official authority – to the Oxford House (a community based sober living environment) across the street from his home.

Our objective was to assess whether Chief Augello committed misconduct in violation of Florida law and Palm Bay policies, guidelines, practices, and general orders.

II. Process and Methodology

Consistent with the scope of the investigation, RumbergerKirk reviewed a range of available documents and statements of multiple witnesses. Specifically, at the outset we reviewed an assortment of call logs from various Oxford Houses, reflecting active calls for service that were handled by the Palm Bay Police Department. Additionally, we reviewed:

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Lance Fisher's May 10, 2024, complaint and the meeting notes from the September 5, 2024, council meeting.

RumbergerKirk then requested interviews from Lance Fisher and Chief of Police Mariano Augello. As an initial matter, we were unable to secure the interview of the complaining party, Lance Fisher. Specifically, despite our numerous requests to Mr. Fisher for an interview, Mr. Fisher's attorney, Sawyer Frescoln (of Wenzel, Fenton, & Cabassa P.A.), eventually denied our request for an interview, stating: "[a]s this matter is currently being litigated and Mr. Fisher is no longer employed we cannot agree to an interview." At this point, complainant has refused to support his written allegations in a statement to a third-party interviewer. Thus, we are unable to explore the factual basis for Mr. Fisher's allegations.

Unlike Mr. Fisher, Chief Augello unhesitatingly agreed to an interview with us at Palm Bay City Hall. The readiness and availability of certain witnesses to interview was a factor affecting the timeline of our investigation.

III. Applicable Law and Palm Bay Policies, Guidelines, Practices, and General Orders

A. Florida Law

Florida Statute § 112.313(6) prohibits public officials from using public resources for personal gain. Specifically, Fla. Stat. § 112.313(6) provides that "[n]o public officer, employee of an agency, or local government attorney shall corruptly use or attempt to use his or her official position or any property or resource which may be within his or her trust, or perform his or her official duties, to secure a special privilege, benefit, or exemption for himself, herself, or others."¹

B. Palm Bay Police Department General Order No. 401

Palm Bay Police Department General Order No. 401 broadly provides that law enforcement "[m]embers will not commit or omit any act(s) when such commission, or omission, would constitute a violation of any federal, state law or local ordinance. Members will not commit or omit any act(s) when such commission or omission would constitute a violation of Agency policy, rule, regulation, directive or order. This is applicable to all members, whether on or off duty, and whether inside or outside the City."²

In addition, section 401.8(F) addresses the use of public resources by law enforcement officers for personal gain and states, in pertinent part:

¹ Fla. Stat. § 112.313(6).

² Palm Bay Police Department General Order No. 401 Section 401.3(A).

F. Using Official Position for Gain or Privileges - Members will not use their official position or official identification card or badge to avoid consequences of illegal acts, for personal or financial gain, or for obtaining privileges not otherwise available to them. This includes wearing a uniform while off duty to obtain discounts offered to on-duty officers. Members will not use information gained by virtue of their employment to obtain items of value prior to those items being offered to the general public. All transactions involving members receiving personal gain, which are not specifically addressed in Florida State Statute 705.103, (procedure for abandoned or lost property), 705.104, (title to lost or abandoned property), 705.105, (procedure regarding unclaimed evidence), and/or Agency General Order GO 701 must have written authorization from the Chief of Police.

Further, Palm Bay Police Department General Order No. 401 Section 401.13(C) outlines the private conduct of an officer, and states:

C. Conduct in Private Life - Members will be mindful of their special identification by the public as upholders of the law. Laxity of conduct or manner in private life, expressing either disrespect for the law or seeking to gain special privilege, will adversely reflect upon members and the police service. The community and the Agency require that the member lead the life of a decent and honorable person.

IV. Detailed Case Summary

A. Palm Bay Police Department Organization

The Palm Bay Police Department is a public sector organization that provides proactive and reactive police services to the City of Palm Bay.

B. Underlying Complaint and Background

On May 10, 2024, Mr. Fisher sent Ms. Patricia Smith, Ms. Suzanne Sherman, and Ms. Laura Clawson, a written complaint regarding allegations against the Palm Bay Police Department and, more specifically, against Chief Augello.

Included in that information, among other things, were specific allegations that Chief Augello was “using police resources to target the Oxford House directly across the street from his [home].” Mr. Fisher stated that Chief Augello gave Special Investigations Unit (“SIU”), Crime Scene Unit (“CSU”), and patrol “direct orders to maintain constant pressure on the house and to stop and check everyone coming and going.” According to Mr. Fisher, the constant pressure from the Palm Bay Police Department would work to “deter new [and existing] occupants” and financially burden the owner of the community

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– effectively, driving the Oxford House out of business. Mr. Fisher further indicated that Chief Augello had personally confronted occupants of the neighboring Oxford House on multiple occasions, both on and off duty.

Additionally, it is relevant that Mr. Fisher, on September 5, 2025, voiced his concerns to the Palm Bay City Council. While Mr. Fisher briefly discussed his medical situation and his allegations against Chief Augello, he did not specifically address the facts surrounding his allegations that Chief Augello improperly used police resources for his own personal gain. He did, however, indicate that the Palm Bay Human Resources Department failed to timely investigate those allegations. Largely, outside of the above-mentioned topics, the colloquy between Mr. Fisher and the Palm Bay City Council contained matters irrelevant to this investigation.

C. Witness Interview Statements

1. Chief of Police, Mariano Augello

Due to the direction to end the investigation, we were not able to complete the scheduled interview of Chief Augello.

V. Conclusion

RumbergerKirk was retained to investigate the evidence and allegations concerning whether Chief Augello had improperly utilized Palm Bay Police Department resources, for his own personal benefit, by inappropriately directing Palm Bay Police Department resources and personnel – outside the scope of his official authority – to the Oxford House (a community based sober living environment) across the street from his home.

On February 6, 2024, we were informed by Ms. Patricia Smith that Interim City Manager, Scott Morgan, directed her to end the investigation. As requested, we have provided all documents and drafts related to the investigation.

Due to the complaining witness' unwillingness to provide a statement and the decision to terminate this investigation, no findings have been made. RumbergerKirk has ended its investigation and is providing this report to Ms. Patricia Smith.

Very truly yours,

Francis H. Sheppard

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