

Michael J. Barnes

From: Michael J. Barnes [skegee@juno.com]
Sent: Thursday, December 23, 2010 8:06 AM
To: Northwest Florida Daily News
Cc: 'Conner Tom'; Colin Lipnicky
Subject: NWFDN Guest Column: "Inaccurate Reporting and Misinformation on Sheriff's Review Board Law" [RETRANSMITTED WITH OFFICIAL REVIEW BOARD RECORDS PROVIDED BY COUNTY CLERK'S OFFICE]
Attachments: eMail-Barnes-20101216-DoNotRepeal-81-442-Law.pdf; NWFDN-20101212-Never-AppliedStatueHotTopicAtOCSO.pdf; NWFDN-Editorial-20101221-Bridges-BoardsAndBars.pdf; OCSO-ReviewBoard-OfficialRecords-ExtractedPages.pdf; OCSO-ReviewBoard-OfficialRecords-1982-1987.pdf
Categories: Media

Title: Inaccurate Reporting and Misinformation on Sheriff's Review Board Law

In two Northwest Florida Daily News (NWFDN) articles; specifically, "Never-applied Statue Now A Hot Topic at Sheriff's Office," on 12/12/2010 and the 12/22/10 editorial, "Bridges, Boards and Bars," the newspaper reported that "...no one apparently ever went so far as to do what it took to create the first board," and "no personnel board was ever formed" as it related to the Laws of Florida 81-442. In a recent Panhandle Legislative Delegation meeting and reported comments in the newspaper, it appears Rep. Matt Gaetz's quick actions to repeal the 81-442 law were done in haste and without researching the facts.

In reviewing the official records from the Okaloosa County Clerk of Courts, it is clear that a Personnel Standards and Review Board (PSRB) at the Sheriff's Office existed for at least five years and worked efficiently. With missing minutes, it was unclear why former Sheriff Gilbert decided to cease having what appeared to be an operational board that met the intent or purpose of State law.

In a letter to former State Rep. James Ward mailed on 12/8/1982, Austin Harrison, the PSRB Chairman, stated that "...we would like for it to go on record that we highly recommend the establishment of this type of Board to other Sheriff's offices as it creates an effective representation of the employees as well as the Sheriff. In another letter to Ward on 12/19/1983, it was stated by the PSRB Chairman, David Kinlaw, that "...the Board is a very worthwhile committee as it provides effective representation of the employees and an opportunity to voice their views should an incident arise in which they feel an incorrect and unjust decision has been made against them."

Mr. Harrison and Mr. Kinlaw's statements and the official review board records fully substantiated my comments in my 12/16/2010 email to the Legislative Delegation. Specifically, I strongly contend that had the review board been in full effect the former Sheriff Charles Morris' kick-back scheme would have been stopped in its tracks and not continued for as long as it did. Why? The OCSO employees who participated in the kick-back scheme may not have worried about or hid behind any potential reprisal actions if they had reported the illegal act because the review board would have protected their employment in the agency—it's a very strong built-in Whistleblower Protection Program. The intended repeal could make all sworn and non-sworn personnel vulnerable to unethical employment practices as we have witnessed over the recent years. There is well-known saying, "Those who do not remember their past are condemned to repeat their mistakes." This quote cuts to the core why the repeal should not occur on the 81-442 law. The 1981 legislature had enough insight or vision to understand the unusual culture of Okaloosa County and put into a law that holds the Sheriff accountable while simultaneously protecting the personnel that is serving the Sheriff.

The PSRB law is much like the Merit System Protection Board (MSPB) for the Federal Civil Service employees, and you don't hear U.S. lawmakers trying to repeal the MSPB. This 1981 law is a power accountability tool that is in-place to be used. Why repeal it?

It is unfortunate that the NWFDN and the Legislative Delegation did not do their homework on this very important issue that affects the lives of all the employees at the Sheriff's office and could potentially affect the County financially in possible future legal proceedings. As a result, both entities have published or taken actions based on inaccurate information or misleading statements to the public. I would caution the Legislative Delegation in not repealing the 81-442 law; especially while potential legal actions are pending. Personal favor doesn't look good before any administrative hearing or court proceedings while begging questions remain unanswered. It would be helpful to know why former Sheriff Gilbert did not continue to follow or adhere to the 81-442 law over the years and are there any legal ramifications behind it? If no statutory limitation exists, are there any legal grounds for former Deputies or non-sworn personnel who were fired or terminated without a board review to sue the County? Why didn't former Sheriff Charles Morris adhere to the law when it appears that he had a similar review board program in-place? And finally, why does Sheriff Ashley want to repeal a law that appeared to have worked especially when some of the employees who took kick-backs testified that they feared for their employment had they reported the illegal act?

Michael J. Barnes
P.O. Box 415
Fort Walton Beach, FL 32540-0415

"The meaning of our lives is always bigger than our experience."