

REVISED MARCH 14, 2005

FORT LAUDERDALE CITIZENS REVIEW BOARD MINUTES

Ft. Lauderdale Police Department

City Hall - 8th Floor Cafeteria

100 N. Andrews Avenue

Fort Lauderdale, Florida

February 14, 2005 - 7:00 P.M.

1/05 - 12/05

Cumulative Attendance (Including Special Meetings)

<u>Board Members</u>	<u>Present/Absent</u>	<u>P</u>	<u>A</u>
Steven Muffler, Chair	P	2	0
Roosevelt Walters, Vice Chair	P	2	0
Fenel Antoine	P	2	0
Arnold Cooper	P	2	0
Ted Fling	P	2	0
Sergeant Jan Jordan	P	2	0
Officer Thor Lockhart	P	2	0
Linda Shallenberger	P	1	1
Capt. Kevin Sheehan	P	2	0

Staff

Captain Robert Lamberti, Internal Affairs

Sgt. Rick Maglione, Internal Affairs

Sgt. Victor London, Internal Affairs

Chief Bruce G. Roberts, Fort Lauderdale Chief of Police

George Gretsas, City Manager

Commissioner Cindy Hutchinson

Jamie Opperlee, Recording Secretary

Guests

Officer Quintin Waters

Officer Kermit Bougher

A. Roll Call

Chair Muffler called the meeting to order at 7:03 p.m.

B. Approve Minutes from January 10, 2005

Mr. Fling was concerned that the January minutes did not indicate that he was only present for the election of Vice Chair and not for any previous votes. Chair Muffler felt the minutes could be clarified by adding that Mr. Fling arrived for the election of the Vice Chair.

Mr. Fling felt it improper that the CRB minutes were submitted to the City Commission before the Board had approved them. Ms. Shallenberger noted that the City Commission complained when board minutes were presented to them more than one month after meetings occurred and requested that the minutes be sent as soon as they were available. Mr. Fling commented that several boards' minutes were not provided until later; he felt the Board should decide when to provide the minutes to the City Commission. Chair Muffler stated they should continue as they had, submitting the minutes one month later to allow the board to make corrections and amendments to the previous meeting's minutes. Ms. Shallenberger suggested the minutes be stamped "draft" to indicate they had not yet been approved by the Board.

***Motion** made by Vice Chair Walters, seconded by Captain Sheehan, that the minutes of the January 10, 2005 minutes be amended to indicate that Mr. Fling arrived after the election of the Board Chair. In a voice vote, the motion passed unanimously.*

***Motion** made by Ms. Shallenberger, seconded by Vice Chair Walters, that any minutes presented to the City Commission prior to being approved by the CRB be stamped "Draft." In a voice vote, the motion passed unanimously.*

Chair Muffler thanked Chief Roberts for attending tonight's meeting.

C. General Information

1. Update on the Case of Officer Hoffman

Captain Lamberti informed the Board that this case was still being discussed and would hopefully be presented to the CRB in March.

D. Discussion

1. Citizen Review Board Proposed Name Change

At the previous meeting the Board had agreed to discuss this matter further. Mr. Antoine suggested the City of Fort Lauderdale Review Board; Mr. Cooper suggested the City of Fort Lauderdale Police Department Review Board; Ms. Shallenberger suggested the Citizens Police Review Board.

***Motion** made by Ms. Shallenberger, seconded by Captain Sheehan, to have Chair Muffler approach the City Commission to propose that the Citizens Review Board name be changed to the Citizens Police Review Board. In a voice vote the motion passed unanimously.*

Mr. Fling noted that the name change would necessitate a change to City ordinance and

suggested that they review other desired changes to the ordinance and submit these to the City Commission at the same time. Chair Muffler agreed to wait until all desired changes could be proposed to the City Commission at once.

2. Modification of City Code to Require Police Officers to Attend Board Meetings

Captain Lamberti stated that the Legal Department had completed its research and submitted recommendations to the City Attorney. He felt the CRB should receive some definitive information about this by the March meeting. Chair Muffler stated that this item would be moved to the March agenda. He pointed out that there would be costs associated with requiring Officers to attend meetings. They also planned to require the officers' presence only if the Internal Affairs investigation had sustained the allegations. Captain Sheehan noted that this would require a minimum of three hours overtime per officer.

3. Televised Board meetings

Chair Muffler thanked City Manager George Gretsas for attending the meeting.

The Board discussed the logistics of televising the meetings. Mr. Fling volunteered to speak to the staff technicians to determine if televising the meeting would be possible and report back to the Board.

***Motion** made by Vice Chair Walters, seconded by Captain Sheehan, to move this item to the March agenda. In a voice vote, the motion passed unanimously.*

4. Report on Four Items of Interest to the Board

- a. Incident occurring on October 4, 2003 at 3:00 a.m. in Delray Beach, involving Officer Steven Scelfo.

Captain Lamberti stated that in this case, the officer was the victim and the incident had not resulted in an Internal Affairs investigation, so it was not within the purview of this Board

- b. A traffic fatality occurring on October 25, 2003 at 1:50 a.m. in Fort Lauderdale involving Officer Michael Stitt.

Captain Lamberti stated that a pedestrian had been killed by Officer Stitt in a traffic accident while he was on duty. This case was handled by the Traffic Homicide Unit; there was no officer misconduct, so the case did not result in an internal Affairs investigation and would not come to the CRB for review.

- c. The death of Geoffrey Frothingham, occurring on November 8, 2003 at 2:00 a.m.

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at the Landmark Inn in Fort Lauderdale involving officers Steven Bellerose and Jeffrey Beauregard.

Captain Lamberti explained that the office of Internal Affairs had just recently received the State Attorney's close out letter; they had completed their criminal review. The case was slated to come to the CRB in March.

- d. Incident occurring on December 9, 2003 in Fort Lauderdale involving Officers Michael Smith and William Lilliston.

Captain Lamberti stated that this case was still in staff review. He felt the case should be closed in the near future. As soon as it was closed and the officers were advised of the case's final disposition, it would come to the CRB for review.

E. Review of the following Internal Affairs Investigations:

1. Complainant: Timothy J. Nelson, I.A. #04-018
Allegation: Unnecessary Use of Force
Officers: Reynaldo Santo
Jeffrey Feldewert
Ian Sandman
Jerry Williams
Disposition: Not Sustained

Chair Muffler announced that none of the officers involved in this case was present.

Motion made by Capt. Sheehan, seconded by Ms. Shallenberger, to uphold the findings of Internal Affairs. In a voice vote, the motion passed unanimously.

Mr. Cooper asked that the Assistant Chief's name be printed under his signature on the Internal Affairs report form so it was readable.

Mr. Cooper noted that on page 5 of the Internal Affairs report summary, the arrest seemed to happen with no warning. He wondered if it would be possible for officers to issue a warning prior to making an arrest. Captain Lamberti stated that it would be unfair to try to insist that all officers use the same procedure when performing an arrest. In some cases, a warning could lead to additional resistance. The officer needed reasonable suspicion and probable cause to believe a crime occurred prior to making an arrest. The officer must be permitted to make this decision on a case-by-case basis.

Chair Muffler proceeded to open the public hearing on this case. There being no individuals who wished to speak on this item, Chair Muffler closed the public hearing.

2. Complainant: Teesha Williams, I.A. #04-106
Allegations: 1) Unnecessary Use of Force

2) Discourtesy, insolence or acting in an uncivil manner by word or act to any member of the public while acting in an official capacity
3) Use of vulgar, obscene, or offensive language while acting in an official capacity
Officer: Quintin Waters
Disposition: All charges - Not Sustained

***Motion** made by Mr. Fling, seconded by Vice Chair Walters, that the Board uphold the findings of Internal Affairs. In a roll call vote the motion failed 4 to 5 as follows: Yeas: Mr. Antoine, Mr. Cooper, Vice Chair Walters, Mr. Fling. Nays: Ms. Shallenberger, Captain Sheehan, Officer Lockhart, Sergeant Jordan and Chair Muffler.*

Chair Muffler announced the presence of Officer Waters and Officer Bougher.

Chair Muffler proceeded to open the public hearing on this case. There being no individuals who wished to speak on this item, Chair Muffler closed the public hearing and brought the discussion back to the Board.

Ms. Shallenberger stated that she thought the determination in this case would have been “unfounded” instead of “not sustained.”

Sergeant Maglione explained the definitions of the findings:

- Sustained – the officer did commit the alleged action
- Not Sustained – not enough information was available to prove the officer did or did not violate policy
- Exonerated – the officer did commit the alleged action but in this circumstance the action was condoned
- Unfounded – the alleged action did not happen

Captain Sheehan noted that in this case, witnesses stated something took place, but no witness heard any of the inappropriate statements the claimant said were made by the officer.

***Motion** made by Ms. Shallenberger, seconded by Captain Sheehan, that the Board recommend to the City Manager that the charges in this case be determined “Unfounded.” In a roll call vote the motion passed unanimously.*

Mr. Fling was concerned with the amount of time that had passed between the IA determination of the case the CRB’s hearing. He felt they were not sending the case to the City Manager in a timely manner. Captain Lamberti noted that this case involved unnecessary use of force and therefore had to go the State Attorney’s Office; this was where the delay had occurred.

Mr. Fling informed the Board about an incident that occurred on Ash Wednesday evening. A fire had broken out at Gateway Terrace, a retirement center in Victoria Park. Two officers responded to the scene and one officer had required hospitalization for smoke inhalation after carrying one woman out from the third floor and another from the second floor. These two officers were: Officer Quintin Waters #1298 and officer Kermit Bougher # 901. Mr. Fling noted that these officers were a team that policed Victoria Park and officer Waters was the police Department representative to the Victoria park Civic Association.

3. Complainant: Bruce G. Roberts, Chief, I.A. #04-167
Allegations: 1) Conduct prejudicial
2) Soliciting special privilege or using position for personal gain or private advantage or for the advantage of another
Officer: William Jacobsen
Disposition: 1) Sustained
2) Unfounded

Chair Muffler announced that the officer involved in this case was not present.

Vice Chair Walters stated that some of the paperwork was confusing since there had been two charges with two different determinations. Captain Lamberti stated that upon staff review, it was decided that the officer should receive an Employee Interview Form for the sustained charge of conduct prejudicial. The different dates resulted from the different paperwork for each charge. Captain Lamberti noted that this was one investigation into two separate charges.

Vice Chair Walters wondered how the conduct prejudicial charge could be sustained if the soliciting charge was unfounded. Captain Lamberti explained that the officer's performance of an official action – warning a customer that his car was illegally parked – followed by the officer's preferential treatment at the counter and subsequent receipt of his order with no payment offered or accepted had put the officer and the Police Department in a bad light.

Mr. Fling stated that the president of the FPO had brought up the question of whether it violated an officer's rights to be questioned by an individual and then questioned by Internal Affairs about the same matter. Mr. Fling felt one statement – the information taken by Mr. Bates - was a compelled statement that Internal Affairs could not read because it was not recorded. Captain Lamberti did not feel the officer's rights had been violated in this case. Mr. Fling asked what authority Mr. Bates had to question anyone.

Captain Lamberti stated that Mr. Bates felt he had witnesses an indiscretion and felt it his duty to question the officer about it. Mr. Cooper asked if any other officer had been interrogated by a citizen the way this officer had been by Mr. Bates. Captain Lamberti reminded the Board that Mr. Bates was the director of the Office of Professional Standards in Fort Lauderdale and Officer Jacobsen voluntarily chose to answer Mr. Bates' questions.

Mr. Gretsas stated that he resented this line of questioning; Mr. Bates was a City employee in charge of the Office of Professional Standards and his conduct was not in question. Mr. Gretsas felt it inappropriate for the CRB to be examining the conduct of a witness. Chair Muffler confirmed with Mr. Gretsas that Mr. Bates fell under Mr. Gretsas's authority to hire and fire and Mr. Gretsas could take any actions he wished if he felt Mr. Bates had acted improperly in this case. Chair Muffler stated the Board would not discuss Mr. Bates any longer, as they had no jurisdiction over him.

Mr. Gretsas stated that he believed Mr. Bates acted properly and Mr. Gretsas endorsed the action he had taken.

There was discussion regarding whether the officer might have been intimidated or scared by Mr. Bates' questions; Captain Lamberti stated the officer was probably caught off guard, not thinking someone would confront him inside the restaurant.

Ms. Shallenberger was glad Mr. Bates had questioned customers at the restaurant about the incident because she felt the customers' comment indicated that no one felt the officer had behaved improperly except Mr. Bates.

Mr. Cooper felt the practice of restaurants giving police officers free food and drink originated in a time when they weren't compensated properly. Ms. Shallenberger pointed out that police officers are compensated better now and felt that today's restaurant managers see offering free food and drink to officers as a way to say thank you for their service to the community.

Mr. Gretsas felt the only issue was that this particular officer violated a long-standing policy of the department and as a consequence, a counseling slip was put in his file. Mr. Lamberti stated that regardless of an individual's opinion on this practice, the Police Department was responsible to maintain its integrity and did not want to give the appearance that something was inappropriate.

Chair Muffler stated that his main concern was for public perception; he felt even small actions like this could really offend some citizens and reflect poorly on the Police Department as a whole. Chair Muffler noted that this was probably the lowest level reprimand an officer could receive. Mr. Antoine concurred that the public could make generalizations about the Police Department because of incidents like this.

***Motion** made by Ms. Shallenberger, seconded by Mr. Antoine, that the Board uphold the findings of Internal Affairs on both counts. In a roll call vote, the motion passed unanimously.*

Chair Muffler proceeded to open the public hearing on this case. There being no individuals who wished to speak on this item, Chair Muffler closed the public hearing.

4. Complainant: Bruce G. Roberts, Chief, I.A. #04-209
Allegations: 1) Violation of the personally assigned vehicle program Policy
2) Violation of the Employee Personnel Information Policy
3) Untruthfulness
Officer: John Gonzalez
Disposition: All charges - Sustained

Chair Muffler announced that the officer involved in the next two cases was not present.

***Motion** made by Captain Sheehan, seconded by Vice Chair Walters, that the Board uphold the findings of Internal Affairs on all three counts. In a voice vote, the motion passed unanimously.*

Mr. Fling wondered if there might be some civil liability to the City due to the traffic cases for which this officer did not appear. Sergeant Maglione confirmed that these were traffic violations Officer Gonzalez had witnessed. None of the cases involved accidents and all were dismissed.

Chair Muffler proceeded to open the public hearing on this case. There being no individuals who wished to speak on this item, Chair Muffler closed the public hearing.

5. Complainant: Bruce G. Roberts, Chief, I.A. #04-225
Allegations: 1) Failure to appear in traffic court
2) Unsatisfactory performance
Officer: John Gonzalez
Disposition: Both charges - Sustained

***Motion** made by Mr. Fling, seconded by Vice Chair Walters, that the Board uphold the findings of Internal Affairs on both counts. In a voice vote, the motion passed unanimously.*

Chair Muffler proceeded to open the public hearing on this case. There being no individuals who wished to speak on this item, Chair Muffler closed the public hearing.

***Motion** made by Ms. Shallenberger, seconded by Captain Sheehan, that the meeting be adjourned. In a voice vote, the motion passed unanimously.*

There being no further business before this Board, the meeting was adjourned at 8:25 p.m.