

**FORT LAUDERDALE CITIZENS POLICE REVIEW BOARD MINUTES**  
**Ft. Lauderdale Police Department**  
**City Hall – 8<sup>th</sup> Floor Conference Room**  
**100 N. Andrews Avenue, Fort Lauderdale, Florida**  
**December 12, 2005 - 7:00 P.M.**

<b>Board Members</b>	<b>Present/Absent</b>	<b>1/05 - 12/05</b>	
		<b>Cumulative Attendance (Including Special Meetings)</b>	
		<b>P</b>	<b>A</b>
Steven Muffler, Chair	P	11	0
Roosevelt Walters, Vice Chair	P	11	0
Fenel Antoine	P	10	1
Ted Fling	P	11	0
Sergeant Jan Jordan	P	8	2
Officer Thor Lockhart	P	11	0
Linda Shallenberger	P	10	1
Captain Kevin Sheehan	P	9	2
Dr. Ronald Wright	A	2	2

**Staff**

Captain John Dale, Internal Affairs  
Sergeant Victor London, Internal Affairs  
Brenda Cooper, Recording Secretary

**Guests**

Jhesmaly Dixon  
Sergeant Luis Alvarez  
Sergeant Mike DiMaggio

**A. Roll Call**

Chair Muffler called the meeting to order at 7:00 p.m.

**B. Approve Minutes from October 10, 2005**

Chair Muffler noted that the November meeting was cancelled due to Hurricane Wilma.

Mr. Fling noted two spelling errors in the minutes.

**Motion** made by Vice Chair Walters, seconded by Capt. Sheehan, to approve the October 10, 2005 meeting minutes as amended. Motion passed unanimously.

**C. Special Presentation to Mr. Antoine**

Captain Dale presented Mr. Antoine with a plaque thanking him for his service to the Board. Mr. Antoine thanked the Board for their support during his tenure.

**D. General Information**

Chair Muffler stated that new officers would be elected at the next meeting and the Board would begin its appointment year. They would also be joined in January by new member George Tordella.

Chair Muffler congratulated Captains Jordan and Sheehan on their respective promotions.

Chair Muffler showed the Board a copy of the ordinance that accomplished their recent name change. Chair Muffler said he had contacted the person responsible for their letterhead, who provided him with a draft copy. Chair Muffler noted that there was no address on the letterhead for the Citizen Police Review Board. He said that anyone drafting a letter on the Board's letterhead should use his or her own return address. Chair Muffler felt this would reinforce the Board's impartiality.

**Motion** made by Captain Sheehan, seconded by Vice Chair Walters, to approve the new letterhead design. Motion passed unanimously.

Chair Muffler agreed to order the minimum amount of new letterhead.

Captain Dale introduced Sergeants Luis Alvarez and Mike DiMaggio to the Board. Captain Dale informed the Board that pursuant to their conversations regarding the timeliness with which the Board was provided their information, he had performed an audit of upcoming cases and collected all the information the Board needed. He had then scheduled four of the cases for October and four cases for November, but the November meeting was cancelled because of the hurricane, so they would hear the remaining four cases this evening.

Captain Dale informed the Board that he had written to the State Attorney's Office in an effort to get them "on the same page" in regard to notifying them as soon as their write-ups were complete. He promised the Board he would work with the State Attorney's Office to get each item resolved in a timely fashion.

Mr. Fling distributed a list of concerns he had compiled in response to the Mayor's suggestion accompanying the Board's reappointment notice. Mr. Fling felt the Board's meetings should be included on the announcement board in the lobby. Mr. Fling felt that City Management should receive the Board's recommendations and comments at the same time they received information from Internal Affairs and the Chief of Police.

Chair Muffler explained the reason the files could not be examined by the Board earlier on in the process. The statute stipulated that the files may not be made public until after the investigation was over. This was to protect the rights of the police officer. Chair Muffler could not think of any way around this.

Vice Chair Walters asked Captain Sheehan in how many cases over the previous twelve months had an officer been disciplined prior to the CPRB's review of the files. Captain Sheehan said that in every case, the officer was at least advised that he or she would be disciplined; in some cases, the discipline was served by the time the CPRB reviewed the case. Captain Sheehan noted that if the Board recommended a shorter suspension than the officer had already served and the Chief and the City Manager agreed with the Board's recommendation, the officer could be reimbursed for the suspension time and a new discipline letter could be

added to his or her file. Captain Sheehan did not think that it worked the other way though; if they determined a longer suspension was warranted, the officer was not compelled to serve additional suspension time.

Chair Muffler read from the code section and noted that it did not state that the Board should review the file after the City Manager made his decision, but the City Manager had told Chair Muffler that he considered the Board's recommendations before he did anything. Captain Dale stated that currently, discipline was not meted out until after the CPRB made their recommendation.

Mr. Fling had learned from the City Attorney that an ordinance prohibited televising the Board's meetings.

**E.**

1. Complainants: Jhesmaly Dixon (I.A. #04-120)  
(Confidential)  
Allegations: 1) Engaging in Conduct unbecoming a Police Officer  
2) Failure of a sworn officer operating a marked vehicle while in an off-duty capacity to advise dispatch when he/she discovers an incident or is going to assist an on-duty unit  
Officer: Timothy Shields  
Dispositions: 1) Not Sustained  
2) Sustained

Mr. Antoine asked the Board to consider some way to avoid removing the officer from service; perhaps they could offer him some form of retraining.

**Motion** made by Mr. Antoine to recommend that the officer be suspended without pay and offered additional training. Motion died for lack of a second.

Mr. Fling was concerned about the timeline. He noted that the incident occurred on July 7 and 8, 2004; the notice was sent to the officer from the Chief on January 5, 2005, and the officer was ordered suspended without pay for eight hours on March 3, 2005. Mr. Fling asked if this matter was closed, and if so, why did they have it now. There was some confusion regarding whether the officer had served the suspension. Captain Sheehan felt that even if discipline had already been served, they should still hear the case. If they disagreed with the decision, they should inform the City Manager and Chief of Police.

Chair Muffler referred again to the code section indicating that the case should be brought to the CPRB within 20 days after an officer was recommended for discipline. Chair Muffler felt the ultimate tragedy was that this delay served to silence the public. It also denied the officer the ability to clear his name. Mr. Fling noted that the State Attorney's close out letter was dated October 4, 2004. Captain Dale assured the Board that since the Hoffman case, things were handled differently.

Vice Chair Walters asked if the officer was given a random drug test, since both of the

complainants had indicated they felt the officer was high when the incident took place. Sgt. London said that the information from the complainant seemed to point to alcohol intoxication, and by the time the officer was interviewed, it was too late to perform a sobriety test. Captain Dale explained to Vice Chair Walters that the second violation had been added during the course of the investigation. Vice Chair Walters felt that this information should be included; he had wondered in this case where the "sustained" charge had come from, since it wasn't filed by the complainant. Chair Muffler felt the form could be altered to indicate "add on" charges.

Mr. Fling said he felt the most important question had never been asked. The officer admitted in his Internal Affairs statement that he was in the woman's yard for 28 minutes. No one ever asked him why he remained there for 28 minutes, blocks from where he was supposed to be watching for a stolen car. After witnessing a car traveling at 60 – 70 miles per hour on Powerline, he pulled the car over but never checked the woman's license and walked away. The only report from the other officers involved was Sgt. Cristofaro's comment. Mr. Fling noted that the State Attorney said he was very troubled by this.

Mr. Fling said he believed that the officer's record was good; Captain Dale read a record of complaints against the officer and the outcomes. Captain Sheehan said the officer's location could be explained, but other parts of this incident could not be, and he listed his concerns:

- Why had the officer not gone home over an hour after his shift had ended?
- The officer claimed that the vehicle was suspicious, but he never exited his vehicle after pulling her over, and never ran her license.
- The officer remained in place for fifteen to twenty minutes reading a magazine after the incident took place.
- The officer never informed any other officer that he was leaving

Ms. Jhesmaly Dixon, the complainant in the case, explained the emotional trauma she had suffered since this incident. She stated that she feared for her life and did not feel safe in her own home. She also had severe psychological reactions to seeing a police car now.

Ms. Dixon explained that she and her roommate had just returned home after driving to a convenience store on Powerline when she was accosted by Officer Shields. Ms. Dixon was on the sidewalk in front of her home when she saw Officer Shields make a U-turn on Powerline and then pull over right next to where she was. He then rolled down the passenger side window in order to ask what Ms. Dixon and her friend were doing this evening.

Ms. Dixon remarked that she knew this was not proper police behavior, and knew that she and her friend had done nothing wrong. Officer Shields then asked to speak to Ms. Dixon's friend, who had been driving the car. Ms. Dixon had gone into her home and when she came back outside and tried to approach her friend near the police car, Officer Shields warned her to remain on her porch. Ms. Dixon panicked, ran to her friend and grabbed her by the arm, telling her they had to go. Once in the house, Ms. Dixon could see Officer Shields through the window approaching the house.

Ms. Dixon asked her friend what had happened, and she explained that Officer Shields had asked her to go to the gas station across the street and have sex with him in his car. Officer Shields then knocked on the door and told Ms. Dixon that he wanted her friend to come back

outside; Ms. Dixon said her friend would not, as she did not feel well. She then asked Officer Shields to leave. Ms. Dixon then went outside in order to get the vehicle number from the police car. Officer Shields then remarked that he had to go home to his wife and kids.

Ms. Dixon recalled that Officer Shields had removed his badge from his uniform and was sweating and very nervous. When Ms. Dixon said she intended to get the number from his car, he stated, "If I were you, I would not do that." Ms. Dixon stated that Officer Shields had his hand on his gun at that point and she feared he would shoot her. She went back in her house and Officer Shields kept knocking on her door and asked her, "Why don't you just let me go inside the house for ten minutes and have sex with her?" He then offered to take both women to a hotel. Ms. Dixon threatened to call the police and Officer Shields left.

Ms. Dixon phoned 911 and stated that a police officer was trying to enter her home. She said she waited almost an hour for a response. When the police responded, they spoke to Ms. Dixon's neighbors. The next day, one of Ms. Dixon's neighbors, a police officer, told her she had wondered what the officer was doing there.

Chair Muffler noted that Ms. Dixon had taken a polygraph; Captain Sheehan explained that the FOB's policy was to refuse to represent any officer in any criminal or civil matter if he or she took a polygraph, so this put officers over a barrel.

Mr. Antoine asked Ms. Dixon why her friend was not here this evening. Ms. Dixon stated she did not know where her friend was right now. Captain Sheehan asked who the woman was at the house who would not give a statement. Ms. Dixon explained that this was the owner of the house and she was in bed when the incident occurred. Sgt. London stated he had contacted her later on and she had indicated that she did not want to participate. Captain Sheehan asked Ms. Dixon exactly what she saw occur when her friend was talking to Officer Shields. Ms. Dixon said that she saw her friend slowly inch backward away from the car and described movements Officer shields made. Ms. Dixon stated that she could not see exactly what was happening, but that Officer Shields was "showing her something that was between his legs; I don't know what it was, but what else does he have in the middle of his legs?"

Captain Sheehan confirmed with Ms. Dixon that she had not filed a complaint against a police officer prior to this incident or since this incident. Ms. Dixon confirmed for Mr. Fling that she had told the police officers who interviewed her on the night of the incident exactly what she had told the Board today.

Ms. Shallenberger and Chair Muffler thanked Ms. Dixon for attending and participating in the investigation.

Chair Muffler closed the public portion of the meeting and brought the discussion back to the Board.

**Motion** made by Mr. Antoine to postpone any decision on this case until they could investigate further. Motion died for lack of a second.

Mr. Antoine was extremely concerned about the fact that Ms. Dixon's friend had been operating

her vehicle while her license was suspended and wanted to know why. Mr. Fling said this had nothing to do with the case against the officer.

**Motion** made by Captain Sheehan, seconded by Vice Chair Walters, to accept the findings and disposition of Internal Affairs regarding count 2: Failure of a sworn officer operating a marked vehicle while in an off-duty capacity to advise dispatch when he/she discovers an incident or is going to assist an on-duty unit. In a roll call vote, Board unanimously approved.

Vice Chair Walters said he disagreed with the findings, but wondered what good it would do now to formally disagree. Chair Muffler stated that he felt he had stated his opinions about the case and how it was handled and that was all they could do.

**Motion** made by Vice Chair Walters, seconded by Mr. Fling, to reject the findings and disposition of Internal Affairs regarding count 1: Engaging in conduct unbecoming a Police Officer. In a roll call vote, Board unanimously approved.

Chair Muffler explained the findings and disposition to Ms. Dixon. He told her that they were accepting the findings of the Police Department regarding the second, less serious count, and rejecting their findings on the first count. Chair Muffler explained that a finding of "not sustained" meant that there was no evidence to clear the officer's name, but no evidence to find a violation either. Ms. Shallenberger clarified that it amounted to insufficient evidence.

Captain Dale explained the difference between the findings: not sustained, exonerated and sustained and also the difference between conduct unbecoming and conduct prejudicial.

Captain Sheehan felt they should write a letter to the City Manager explaining their rejection and offering a recommendation for what should be done. Ms. Shallenberger said the problem was that Officer Shields categorically denied the entire incident and they had no concrete proof otherwise. Ms. Shallenberger said she believed Ms. Dixon's version of events, not the officer's. Mr. Fling thought the City Manager and Chief of Police would want the Board's suggestion for discipline regarding the conduct unbecoming charge.

Ms. Shallenberger asked captain Dale what the punishment would have been if Officer Shields had been found guilty of conduct unbecoming. Captain Dale stated the punishment would have been quite severe, probably termination.

Chair Muffler stated that they could conclude their letter by saying that the case was over a year old by the time it reached them; it was not delivered to them in a timely manner, and they could not make a recommendation at this point.

**Motion** made by Vice Chair Walters, seconded by Ms. Shallenberger, to send a letter to the City Manager informing him of their vote regarding allegation 1, including that fact that the file was not delivered in a timely manner to them and that due to the circumstances of the case, they could make no recommendation at this point. Motion later withdrawn by Vice Chair Walters.

Captain Sheehan wanted to include the Board's opinion that each Board member was greatly concerned with the allegations, to make sure the officer did not think he was vindicated. Captain Dale said they had only rejected the existing finding, but had not rendered their own

finding; Chair Muffler clarified that possible findings were: sustained, not sustained, exonerated, unfounded, or defer case for more information.

**Motion** made by Ms. Shallenberger, seconded by Vice Chair Walters, to find the charges sustained on count 1: Engaging in conduct unbecoming a Police Officer. In a roll call vote, the motion passed 6 – 2 as follows: Mr. Antoine, No; Mr. Fling, Yes; Sergeant Jordan, Yes; Officer Lockhart, No; Ms. Shallenberger, Yes; Captain Sheehan, Yes; Vice Chair Walters, Yes; Chair Muffler, Yes.

**Motion** made by Ms. Shallenberger, seconded by Mr. Fling, to send a letter to the City Manager informing him of their vote regarding allegation 1, adding that the Board would not recommend a specific discipline because the file was delayed, making the issue moot. In a voice vote, Board unanimously approved.

2. Complainant: Michael Findeis (I.A. #04-124)  
Allegation: Discourtesy  
Officer: Ian Sklar  
Disposition: Not Sustained  
Allegation: Unnecessary use of force  
Officer: Shannon Dameron  
Disposition: Exonerated

**Motion** made by Ms. Shallenberger, seconded by Mr. Fling, to approve the findings of Internal Affairs. In a voice vote, the motion passed unanimously.

3. Complainant: Sharry Degroff (I.A. #04-183)  
Allegation: Unnecessary use of force  
Officer: Sergeant Alfred Lewers  
Disposition: Unfounded  
Allegations: 1) Discourtesy  
2) Unnecessary use of force  
Officer: Daniel Torres  
Dispositions: 1) Not Sustained  
2) Not Sustained

**Motion** made by Ms. Shallenberger, seconded by Mr. Fling, to accept the findings of Internal Affairs. In a voice vote the motion passed unanimously.

Mr. Fling added that Officer Torres had stepped forward to stop Sergeant Lewers from being blamed and commended him for it.

4. Complainant: Justin Hankerson (I.A. #05-002)  
Allegations: 1) Unnecessary use of force  
2) Discourtesy  
Officer: Justin Moody  
Disposition: 1) Exonerated  
2) Not Sustained

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**Motion** made by Vice Chair Walters, seconded Mr. Antoine, by to accept the findings and recommendations of Internal Affairs. In a voice vote, the motion passed unanimously.

There being no further business before this Board, the meeting was adjourned at 9:11 p.m.