

**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**  
**January 8, 2007 - 7:00 P.M.**

<b>Board Members</b>	<b>Attendance</b>	<b>1/07 – 12/07</b>	
		<b>P</b>	<b>A</b>
Sgt. Eric Brogna	P	1	0
Capt. Karen Dietrich	P	1	0
Lieut. Mike DiMaggio	P	1	0
Ted Fling	P	1	0
Steven Muffler, Chair	P	1	0
Linda Shallenberger	P	1	0
Alan Stotsky	P	1	0
George Trodella	P	1	0
Roosevelt Walters, Vice Chair	P	1	0

**Staff**

Captain Rick Maglione, Internal Affairs  
Sergeant Rod McGowan, Internal Affairs  
Sergeant William Stewart, Internal Affairs  
Jamie Opperlee, Recording Secretary

**A. Roll Call**

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

**B. Approve Minutes of the October 2006 Meeting**

Chair Muffler noted that there had been no November or December CPRB meeting.

**Motion** made by Mr. Walters, seconded by Ms. Shallenberger, to approve the minutes of the October 9, 2006 meeting. In a voice vote, motion passed unanimously.

**C. Introduction of new members**

New Board members Sergeant Eric Brogna, Captain Karen Dietrich and Lieutenant Mike DiMaggio introduced themselves.

**D. Election of officers**

**Motion** made by Mr. Walters, seconded by Mr. Fling, to nominate Chair Muffler as Chair. Board approved unanimously.

**Motion** made by Ms. Shallenberger, seconded by Mr. Trodella, to nominate Mr. Walters as Vice Chair. Board unanimously approved.

**E. General Information**

Chair Muffler wanted to make new members aware of a case the CPRB had heard a couple of years ago, which was brought up again by the complainant, whose name was Walsh. Mr. Walsh had requested that the CPRB re-hear the case, which they did not do, and he had then gone to the City Commission and explained his position. The City Commission had not taken any action as yet. Chair Muffler distributed the minutes of the meeting when the case was considered, in case further consideration by the Board was required.

Chair Muffler said the type of complaints the CPRB reviewed was at issue, and the City Commission would address this soon. He distributed copies of a March 14, 2006 letter he had written, which explained the Board's concerns, copies of the City code provisions pertaining to the CPRB, and copies of a letter dated April 21, 2006 from the City Attorney in response to Chair Muffler's letter, listing which files came to the CPRB and which files did not. Chair Muffler said Captain Maglione would give the Board additional information shortly, and the Board may meet with the City Commission as well.

Mr. Fling confirmed with Chair Muffler that the City Manager had still not responded to their letter. Captain Maglione said he would now create and distribute to the Board a memo when each case was finalized, and distributed one such memo regarding the Calvey case. From now on, the Board should expect a letter of acknowledgement from the City Manager in response to any correspondence, and Captain Maglione's memo when a case was finalized.

Captain Maglione could not confirm yet the date the CPRB would meet with the City Commission, but agreed to set it up and keep the Board informed. Captain Maglione said the Commission had discussed having an outside entity meeting with the CPRB to discuss the scope of their duties, but had then decided the Commission would meet with the CPRB. Chair Muffler encouraged Board members to contact their appointing commissioners with their ideas and concerns.

Mr. Walters asked Captain Maglione about internal cases and Captain Maglione informed him that there had been approximately four cases completed that the Board had not reviewed. Two involved non-police officers; one was an internal review, and one was now complete but not public record as yet as the criminal case was still pending. The CPRB would review the case after the criminal case was resolved.

Mr. Walters wondered what had become of cases of which the Chief had informed him regarding three officers who had been terminated. Captain Maglione said one officer was terminated as of today for inability to perform the duties for which he was hired; this was not a case the Board would review. Another pending case which could possibly involve termination if the charges are sustained involved a civilian employee and would not be reviewed by the Board either.

Mr. Walters pointed out that the officer involved in tonight's case had already partly served his suspension and wondered what would happen if the Board disagreed with the discipline. Captain Maglione said if another determination was subsequently made regarding the discipline, an officer was compensated with pay for days lost to suspension.

Regarding which cases the CPRB would hear, Captain Maglione said in a case such as this, where there was a gray area, he consulted the City Attorney for an opinion.

Chair Muffler reminded Captain Maglione that the code stated that any case in which discipline was administered must come before the CPRB within 20 days. Captain Maglione explained the process and time requirements of Internal Affairs investigations, and other factors that could lead to the case not being reviewed by the CPRB within 20 days.

Mr. Fling referred to documents sent to CPRB members from the City Clerk regarding cases they were responsible to review, and noted that it indicated that all cases for which there had been Internal Affairs complaints would be reviewed by the Board. Captain Maglione reiterated that any cases he was unsure about were reviewed by the City Attorney.

Chair Muffler said the CPRB should instill public confidence, but right now the ground rules seemed to be shifting regarding what files they were responsible to review, and this did not instill public confidence.

Mr. Fling expressed his frustration at the lack of response from the City Manager to all of the Board's correspondence. He remarked that this was how the City Manager operated: he did not want input. Mr. Fling felt the CPRB ought to "do it right or we don't do it at all."

Ms. Shallenberger said it seemed Mr. Gretsas was making his decisions before he received the Board's recommendations. Chair Muffler suggested that Board members bring these concerns to the meeting with the Commissioners to get clarification from them.

**F. Review the following Internal Affairs investigations:**

1. Complainant: Bruce G. Roberts, Chief (I.A. Case #06-130)  
Allegations: 1) Unsatisfactory Performance  
2) Untruthfulness  
Officer: Russell Suess  
Disposition: 1) Sustained  
2) Not Sustained

The officer was not present.

Captain Maglione stated the "untruthfulness" allegation was not sustained because it was determined there was insufficient information to sustain the charge. Mr. Walters felt the officer had actually lied twice: when giving his first statement and again when giving his clarifying statement.

**Motion** made by Mr. Fling, seconded by Ms. Shallenberger, to approve the findings of Internal Affairs only.

Chair Muffler felt the officer had made a mistake but had compounded his error by lying about it. He thought he should have been forthcoming about the error in his first statement. Chair Muffler thought IA had recommended overly-harsh discipline for the unsatisfactory performance charge in lieu of finding the untruthfulness charge sustained.

Mr. Fling did not believe the officer would have been "that stupid to do something like that [lying] to jeopardize his job."

Lieutenant DiMaggio suggested they vote on the charges separately since there seemed to be disagreement between the Board members on the findings. Mr. Fling and Ms. Shallenberger agreed to separate motions.

**Motion** made by Mr. Fling, seconded by Ms. Shallenberger, to approve the findings only of Internal Affairs on Count 1: Unsatisfactory performance. In a voice vote, motion passed 8 – 1 with Mr. Fling opposed.

**Motion** made by Mr. Fling, seconded by Ms. Shallenberger, to approve the findings only of Internal Affairs on Count 2: Untruthfulness. In a roll call vote, motion failed 4 – 5 with Lieutenant DiMaggio, Mr. Stotsky, Mr. Walters, Ms. Shallenberger and Chair Muffler opposed.

**Motion** made by Mr. Walters, seconded by Mr. Stotsky, to reject the findings only of Internal Affairs on Count 2: Untruthfulness. In a roll call vote, motion passed 6 – 3 with Sergeant Brogna, Captain Dietrich and Mr. Fling opposed.

Captain Maglione informed Mr. Fling that this was Sergeant Suess's first discipline in 26 years.

Mr. Fling did not feel this punishment fit this crime. Mr. Walters asked if there was a matrix used for determining discipline; Captain Maglione said a matrix was only used in cases of Police vehicle accidents. Captain Maglione said punishment was kept consistent with past practice. If there was previous discipline for the officer, progressive discipline was considered as well. Captain Maglione said there were other cases with similar circumstances and discipline to this one, but this was the only demotion he could recall.

Chair Muffler felt Internal Affairs should have sustained the second count and this would have justified the punishment. Captain Maglione clarified that the untruthfulness charge was deemed "not sustained" because "we didn't feel there was sufficient evidence to say whether it happened or sufficient evidence to say whether it didn't happen; 'not sustained' means it wasn't hard and fast either way." He confirmed that the "untruthfulness" was not considered as part of the punishment.

Ms. Shallenberger felt that "the fact that a pedophile escaped without any kind of punishment at all, somebody was so upset about that, that they came down way unreasonably hard on Sergeant Suess and I just really think this is way out of line."

Captain Maglione agreed that the type of offense must always be taken into account. Sergeant Brogna did not understand the Board's position: They had voted to reject the findings of Internal Affairs on the untruthfulness count, but if Internal Affairs had sustained that count, Sergeant Suess would almost certainly have been terminated. At the same time, the Board also felt that the discipline determined for the first count was not fair. Mr. Walters felt they needed to ignore the second count, since it was not sustained.

Lieutenant DiMaggio asked the Board to consider what they would feel fair punishment would be if the child involved was one of their own. If that were the case, Lieutenant DiMaggio felt this punishment would be considered "far too lenient." Lieutenant DiMaggio reminded the Board that the rookie cops had consulted their supervisor for help on a case that was complex, and had far-reaching consequences, and Sergeant Suess had not made the right decisions or acted properly.

Lieutenant DiMaggio clarified for Mr. Walters that his opinion was based on Sergeant Suess's lack of proper supervision and decision-making, and the fact that his actions led to a loss of all evidence in this case. All Sergeant Suess had needed to do was go to the apartment and secure the evidence and/or phone the Special Investigations Division to respond. He did neither.

Lieutenant DiMaggio explained to Ms. Shallenberger that the officers at the scene could have forcibly entered the apartment to secure the evidence, but one of the roommates was willing to grant access, so this would not have been necessary. At the very least, the officers could have removed all occupants from the apartment and waited for a search warrant.

Lieutenant DiMaggio reminded the Board that the pedophile could never be prosecuted now because of Sergeant Suess's improper actions. Sergeant Brogna pointed out that this decision involved "some of the most basic search and seizure laws that every Police Officer is taught in the academy... to fail to direct on something that should have been so easily decided upon and to just do nothing, to me was egregious." Sergeant Brogna pointed out that Sergeant Suess had dismissed the witnesses' information because they had been drinking, and had thereby lost evidence of a capital felony.

Captain Dietrich noted that Sergeant Suess had 15 years of Detective Bureau experience so there was no excuse.

Lieutenant DiMaggio informed the Board that the child involved had been removed from her mother's custody, and he wondered how, if the mother was present this evening, they could explain to her that the punishment was sufficient.

Captain Dietrich felt that if this case did nothing else, it sent a message to their supervisors that they would be held accountable.

**Motion** made by Mr. Stotsky, seconded by Mr. Walters, to approve the recommended discipline for Count 1: Unsatisfactory performance. In a voice vote, the motion passed 8 – 1 with Mr. Fling opposed.

There being no further business before the Board, the meeting was **adjourned at 8:14 p.m.**