

**CITIZENS POLICE REVIEW BOARD MEETING  
 CITY OF FORT LAUDERDALE  
 CITY HALL 8<sup>TH</sup> FLOOR CONFERENCE ROOM  
 100 NORTH ANDREWS AVENUE  
 FT. LAUDERDALE, FLORIDA 33301  
 SEPTEMBER 8, 2008 – 7:00 P.M.**

<b>Board Members</b>	<b>Attendance</b>	<b>1/08 – 12/08</b>	
		<b>P</b>	<b>A</b>
Steven Muffler, Chair	P	4	0
Roosevelt Walters, Vice Chair	P	4	0
Lieutenant Mike DiMaggio	P	4	0
Ted Fling	P	4	0
Capt. Eric Brogna	P	4	0
Alan Stotsky	P	4	0
George Trodella	P	4	0
Eileen Helfer	P	4	0
Lt. Gregory Blazs	A	2	2

**Staff**

Capt. Rick Maglione, Internal Affairs  
 Sgt. Tim McCarthy  
 Sgt. Hector Martinez  
 Sgt. Rod McGowan  
 Police Chief Frank Adderley  
 B. Chiappetta, Recording Clerk, Prototype, Inc.

**Witnesses**

Michael Man  
 Sherif Ibrahim  
 Officer Eugene McCoy  
 Mathias Bestck  
 Robert Walsh

**A. Roll Call**

Chair Muffler called the meeting to order at 7:01 p.m. and roll call was taken.

**B. Approve Minutes from the Board’s July 2008 Meeting**

Chair Muffler noted the Board had not met in August.

Chair Muffler requested that the verbiage "...opened the hearing for public comment" be used instead of "...opened the hearing to the public. "

**Motion** made by Mr. Walters, seconded by Mr. Fling, to approve the minutes of the Board's July 2008 meeting as amended. In a voice vote, the motion was unanimously approved.

### **C. General Information**

Chair Muffler welcomed new Police Chief Frank Adderley to the meeting.

Chief Adderley thanked the Board for their efforts, noting that sometimes their decisions were not easy to make.

Capt. Maglione announced that Sgt. Bill Stewart had been transferred to the forensics unit and Sgt. Tim McCarthy would replace him in Internal Affairs.

Mr. Robert Walsh asked how the meetings were documented. Chair Muffler informed him that the meetings were recorded, but that witnesses were not sworn in.

### **D. Review the Following Internal Affairs Investigation**

#### **1. I.A. Case #08-100**

<b>Complainant:</b>	Jacary Anderson
<b>Allegation:</b>	Unnecessary Use of Force
<b>Officer:</b>	Jose Lopez
<b>Disposition:</b>	Unfounded

Mr. Fling stated four items in this case had made an impression on him. The first was the use of the expression "down the gear" when the backup officers were told to remove their gear by hospital officials. Mr. Fling asked if this was the usual procedure at this facility.

Capt. Maglione explained that at certain facilities, such as a detention facility, weapons were not permitted. In this situation, at this facility, they did not permit weapons to enter the facility because there were individuals present who were criminal suspects as well as mental patients. In this case, the officers were initially denied access with their weapons, but were eventually allowed to enter with them. This incident had since been resolved between the Police Department and the hospital with an agreement that in certain circumstances, an exception to this rule was warranted.

Mr. Fling felt the hospital's attitude toward the officers was "kind of rotten." Capt. Maglione understood Mr. Fling's concern, but noted that in their investigation they had examined the officers' conduct.

Mr. Fling was also concerned about the unresponsive performance of the JDC when the responding officer requested assistance with the subject. Capt. Maglione explained that when the officers arrived, they were aware of Mr. Anderson's track record, and requested assistance. When the deputy reached the door, he noted that he was the only officer inside and there were three officers outside, and he had made the decision to stay inside rather than assist three officers dealing with one juvenile.

Mr. Fling asked if Tasers were taken to the fifth floor where Mr. Anderson was. Capt. Maglione was unaware of whether the officers carried Tasers.

Chair Muffler then opened the hearing for public comment, and finding there were no members of the public wishing to speak, public comment was closed.

**Motion** made by Mr. Fling, seconded by Mr. Walters, to accept the findings of Internal Affairs. In a voice vote, Board unanimously approved.

**2. I.A. Case #08-107**

**Complainant:** Michael Man  
**Allegation:** Discourtesy  
**Officer:** Eugene McCoy  
**Disposition:** Sustained

Chair Muffler noted that the officer and the complainant were present.

Mr. Trodella agreed the charge should not be sustained, but felt that some counseling was advisable. Mr. Trodella felt Mr. Man, as a 20-year hotel manager, should be more familiar with Chapter 509 of the Innkeeper's Law. It seemed Officer McCoy was more aware of this and also with the ability to track hotel keys. Mr. Trodella believed Officer McCoy's statements were hypothetical and not meant as a threat to anyone. He also thought Officer McCoy's return with his Sergeant indicated he was being conscientious. Mr. Trodella said he had managed hotels, and knew that the first step was to isolate a complainant and determine if the situation could be resolved.

Mr. Fling asked Mr. Trodella if it was common practice to enter rooms to count guests. Mr. Trodella said he had relied on housekeeping staff for this information if he had suspicions.

Chair Muffler asked about the video, which had been mentioned in the email complaint. Capt. Maglione stated they had seen the tape and there was nothing on it of value. Sgt.

McGowan concurred that technical staff had reviewed the tape and found nothing important on the tape; it had not captured that date.

Chair Muffler asked Mr. Man, the complainant, if he had seen the video he stated in the email would document the incident. Mr. Man said he had not reviewed the video himself and he had discovered the cameras had not recorded the scene after he wrote the email, but noted there had been four other witnesses.

Mr. Walters asked if the gun issue was part of the sustained finding. Capt. Maglione stated there had been insufficient evidence to substantiate anything regarding the gun. He said there was one person present who was totally independent: the hotel guest from whom they obtained a statement. Many of the decisions had been based upon this witness's statement. Capt. Maglione confirmed for Mr. Walters that the Board was considering only whether or not the statements made by Officer McCoy rose to the level of discourtesy.

Mr. Walters did not feel the complaint should be sustained because he thought the officer had no choice regarding the public location of the incident. Also, some of the witnesses had discussed the case with Mr. Man and the complaint had been posted for some witnesses to read "so that they could be consistent in their statements, and they still weren't consistent in their statements."

Chair Muffler felt that the message Officer McCoy wanted to deliver was proper, but the way he did it was not professional. He noted that if an incident such as this had occurred in the private sector, the employee would have been reprimanded, if not fired.

Mr. Man informed Mr. Fling that the other two officers at the scene had been silent. Mr. Man added that the location of the incident had been chosen by Officer McCoy. He did not ask Mr. Man to speak to him in his office or some other private location. Mr. Fling asked Mr. Man why he did not ask the other officers to protect him from Officer McCoy. Mr. Man said he believed at the time that something of which he was unaware had set Officer McCoy off, and Mr. Man's reaction had been to try to calm him down. He said he had not approached the other officers because he was sure they would side with Officer McCoy.

Officer McCoy said he had been trying to tell Mr. Man that he could not do what he was doing and informed the Board that this had been substantiated by a former employee. Officer McCoy said Mr. Man had walked in on a couple having sex and refused to leave and he had also removed luggage tags. The purpose of entering the room was ostensibly to determine how many people were in the room. Officer McCoy stated that in his experience, a hotel proprietor did not enter rooms for head counts, and was supposed to leave a room when asked, if he or she was not there for a legitimate purpose.

Officer McCoy said he stood by what he had said that day, and if the same situation occurred, he would arrest Mr. Man for criminal trespass. He noted that "everybody who complained said when he was asked to leave he refused to leave." Officer McCoy said the other officer had informed him this was the fourth call for the same thing. Regarding his gun, Officer McCoy stated in a situation such as this, in a crowd of people, officers stood with their hands on their guns; this was what they were taught.

Chair Muffler said he believed Officer McCoy's statement, but he believed there was a better way to relay the message to Mr. Man. He felt this was "almost vulgar."

Mr. Stotsky was concerned that some officers and Mr. Man alike were not aware of the State Statute Officer McCoy cited regarding hotels.

Officer McCoy informed Mr. Walters that he had asked Mr. Man to move away from the crowd to speak to him but he had chosen to stand behind the counter. Officer McCoy said his voice had not been angry during the exchange, but it had probably been loud to be heard over the crowd.

Lt. DiMaggio did not feel this case rose to the level of discourtesy, even though in hindsight, perhaps Officer McCoy could have chosen different words or a different location.

Chair Muffler then opened the hearing for public comment.

Mr. Man clarified that he managed, not owned, four hotels. He said he had been lauded by South Beach Police for actions he had taken as a manager. Mr. Man said there had been no need for Officer McCoy to speak to him as he had in the lobby. He stated the threat he thought Officer McCoy made had been, "Should my daughter will be here, I will punch you straight in the face." Mr. Man said Officer McCoy had not stated this in a hypothetical, third person fashion such as, "Should the parents of the kids would be here, they would punch you in the head." Regarding the gun, Mr. Man said Officer McCoy had stated, "If I had a room here and you would open the door, I will shoot you" and he had pointed at his gun. Mr. Man stated other witnesses had testified to this.

Mr. Robert Walsh asked about the complaint that brought Officer McCoy to the scene. Capt. Maglione advised Mr. Walsh that the case was public record and he could obtain a copy of the case. He explained that Officer McCoy was called to the scene because a woman had phoned her father in another state and he had advised her to phone the police.

Mr. Man stated in his years of hotel management, he had never walked in on people having sex, and he had not seen any naked girl in this room. He had entered the room with the head housekeeper and there were ten girls present, when only two were

registered. Mr. Man said he and the housekeeper checked every room every day, whether it was occupied or vacant. If a room was occupied, they knocked and waited to enter. On this occasion, the room was very noisy and no one had opened the door, so they used the master key to gain access. He reiterated that no women were naked when they entered the room.

Mr. Man said he had understood every word Officer McCoy said, and insisted he had threatened him and had not asked him to move to another location. Mr. Man stated Officer McCoy had asked him, "Should I continue, shall I put you in the back seat of the car?"

Mr. Walsh summarized what had occurred, and said the point was whether or not Officer McCoy had told Mr. Man he would have punched him in the face if he had walked in on his daughter, and whether Officer McCoy had his hand on his gun and told Mr. Man he would shoot him if he walked into his room.

Finding there were no other members of the public wishing to speak, public comment was closed.

Capt. Maglione said the Internal Affairs investigation had determined there was not a preponderance of evidence to support the allegation that the gun incident had occurred. The investigation had determined there was sufficient evidence of Mr. Man's allegation that Officer McCoy's choice of words was inappropriate or discourteous.

Capt. Brogna believed that Mr. Man was in the habit of entering rooms unannounced, noting that 12 complaints had been lodged by hotel guests for this, and another employee had indicated this was common practice. Capt. Brogna said this might cause an independent observer to agree with what Officer McCoy had done, but they must determine if Officer McCoy said things that were discourteous. Capt. Brogna believed the statements were discourteous, and agreed with the I.A. determination.

**Motion** made by Mr. Trodella, seconded by Lt. DiMaggio, to accept the findings of Internal Affairs. In a roll call vote, the vote was as follows: Ms. Helfer - no, Mr. Trodella - no, Mr. Stotsky - no, Capt. Brogna - yes, Mr. Fling - no, Lt. DiMaggio - no, Mr. Walters - no, Chair Muffler - yes. Motion failed 2-6.

**3. I.A. Case #08-148**

**Complainant:** (Former) Police Chief Bruce Roberts  
**Allegation:** Excessive use of force  
**Officers:** Sergeant Jose Pinto-Gonzalez  
Gregory Fautas  
**Disposition:** Unfounded

Chair Muffler opened the hearing for public comment, and finding there were no members of the public present, public comment was closed.

**Motion** made by Mr. Walters, seconded by Mr. Trodella, to accept the findings of Internal Affairs. In a voice vote, Board unanimously approved.

**4. I.A. Case #08-139**

**Complainant:** Evelyn Hill  
**Allegation:** Discourtesy  
**Officer:** Aaron Baxter  
**Disposition:** Not Sustained

Chair Muffler opened the hearing for public comment, and finding there were no members of the public wishing to speak, public comment was closed.

**Motion** made by Mr. Walters, seconded by Lt. DiMaggio, to accept the findings of Internal Affairs. In a voice vote, the motion passed unanimously.

There being no further business before the Board, the meeting was adjourned at 8:05 p.m.