

**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 14, 2009 – 7:00 P.M.**

<b>Board Members</b>	<b>Attendance</b>	<b>1/09 – 12/09</b>	
		<b>P</b>	<b>A</b>
Alan Stotsky, Chair	A	7	1
Eileen Helfer, Vice Chair	P	7	1
Lt. Glenn Galt	P	1	0
Lt. Mike DiMaggio	A	4	4
Det. Nina Justice	P	8	0
Patrick Kerney	A	5	3
Edwin P. Parke	P	7	1
Adriane Reese	P	8	0
George Trodella	P	6	0

**Staff**

Capt. Maglione  
 J. Picinich, Recording Clerk, Prototype, Inc.

**Communication to the City Commission**

None

**A. Roll Call**

Vice Chair Helfer called the meeting to order at 7:10 p.m. and determined that there were six members present, which constituted a quorum.

**B. Approve Minutes from the Board’s July 2009 Meeting**

**Motion** made by Det. Justice, seconded by Ms. Reese, to approve the minutes of the Board’s July 2009 meeting. In a voice vote, Board unanimously approved.

**C. General Information**

Capt. Maglione provided the Board with an updated roster of Board members.

Capt. Maglione asked if Board members had a conflict with the next meeting, which was scheduled for Columbus Day. Board members indicated no conflicts.

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

1. **I.A. Case Number:** 08-211  
**Complainant:** Franklin C. Adderley, Chief of Police  
**Allegation:** The supervisor shall review the offense report assuring that the use of force is accurately detailed and assure that a copy of the report and any photographs are routed to Internal Affairs  
**Officer:** Sergeant Gayle Schoen  
**Disposition:** Not Sustained  
**Allegations:**
  - 1) Unnecessary use of force
  - 2) The Department member shall detail the use of such force in an offense report and route a copy of the report to Internal Affairs**Officer:** Thomas Capano  
**Disposition:**
  - 1) Not Sustained
  - 2) Sustained

Ms. Reese stated she had called earlier and asked if the YouTube clip could be shown at this meeting. Capt. Maglione said he was working on this. He noted this was one case with two accused officers. A citizen complaint had initiated a separate investigation and Capt. Maglione had found the clip on YouTube while investigating the other complaint.

Mr. Trodella said one of the officers had indicated that certain aspects of the incident were not shown on the YouTube clip. Mr. Trodella acknowledged that “the person taking the shots is the one actually doing the editing, either as they go along or even perhaps after the fact, so that something like this isn’t maybe as conclusive as you might think.”

Ms. Helfer said this might not be an accurate picture of what occurred. Ms. Reese remarked that they needed to look this, as well as the reports provided, in order to augment their information.

The Board viewed the YouTube cell phone video on Capt. Maglione’s computer and Capt. Maglione described what was happening. He stated there were several people arrested that evening. The man on the video had previous injuries and blood on him. The man was handcuffed and on the ground but started to get up. Officer Capano used his foot to force the man back down to the ground. Officer Capano then used his leg a second time to sweep the man’s legs out and straighten them out. This was where Sgt. Schoen “looks like he almost catches him when he comes off balance a little bit.”

Capt. Maglione said the reason Sgt. Schoen was charged was because he was the supervisor on the scene and he had approved Officer Capano's paperwork about this. Sgt. Schoen's job regarding the paperwork was to ensure that it was complete, neat, and accurate. Since Sgt. Schoen was present during the arrest, he had more responsibility to ensure the accuracy of the report. Sgt. Schoen was charged because he had approved the report and was alleged to have failed to do his job.

Ms. Reese indicated Officer Capano's actions on the clip did not seem consistent with his statement, and she found this disconcerting. Capt. Maglione stated Officer Capano had explained he was trying to cover a distance between him and the man trying to get up. Capt. Maglione reminded the Board that there had been a change to Florida State Statutes and the Police Officers' Bill of Rights that now required officers to be provided with not only statements made, but all other available information before Internal Affairs took an officer's statement.

**Motion** made by Det. Justice, seconded by Mr. Trodella, to support the findings of Internal affairs regarding Sgt. Schoen. In a voice vote, Board approved unanimously.

Det. Justice remarked that Officer Capano was short, and he had explained that he was standing at a distance and had utilized his foot to get the man back on the ground. She did not believe this was unnecessary use of force and agreed with the "not sustained" finding.

Regarding the second allegation, Det. Justice said Officer Capano had not fully described what had taken place, and she agreed with the Internal Affairs' "sustained" finding.

Ms. Reese felt there was information lacking in Officer Capano's report. She felt after looking at the clip that there were inconsistencies. She said she would vote with the Board, and assumed they would agree with the Internal Affairs finding that the investigation failed to produce sufficient evidence to prove or disprove the allegation.

Capt. Maglione reminded the Board that the Police Department had initiated the investigation; they had seen the clip and noted Officer Capano's paperwork did not mention use of force. The man in the video was not the complainant and was not a very cooperative witness, but Chief Adderley had felt strongly that this should be investigated.

Ms. Reese explained the section of Officer Capano's statement she felt was inconsistent with the video. Officer Capano's statement was that he had extended himself and held his foot up so the man would make contact with it and be unable to rise, but on the clip, Ms. Reese said she did not see "someone trying to hold him on

the ground; I see someone actively pursuing that individual to put the individual on the ground.”

Mr. Trodella felt that whether the action was classified as proactive or reactive, he did not feel it constituted excessive force.

**Motion** made by Ms. Reese, seconded by Lt. Galt, to support the findings of Internal Affairs regarding Officer Capano. In a voice vote, Board unanimously approved.

1. **I.A. Case Number:** 09-070  
**Complainant:** Linda Marie Schaefer  
**Allegation:** Conduct prejudicial  
**Officer:** Carl Hannold  
**Disposition:** Unfounded

**Motion** made by Ms. Reese, seconded by Lt. Galt, to support the findings of Internal Affairs. In a voice vote, Board unanimously approved.

#### Board Discussion

Mr. Parke asked if there was a way to transfer costs of cases to the complainant when the allegations were found to be unfounded or unsustained. Capt. Maglione said they did not want to do this because it might discourage complainants from bringing their allegations to Internal Affairs. He reminded the Board that if Internal Affairs thought a complainant was lying, this was a crime for which the complainant could be prosecuted. Complainants were made aware of this when making statements. He strongly believed that most people who made complaints felt they had been treated improperly but he did not want to add a potential cost to making a complaint because it could discourage people from coming forward.

Capt. Maglione agreed it did not look good when an Officer used force, but this was part of the job and a certain amount of force was justified when responding to resistance. He remarked that in a case such as this, when someone had been arrested after a violent skirmish and was not free to leave, the time to tell him to remain seated had passed and it was time to put him back on the ground.

There being no further business before the Board, the meeting was adjourned at 7:40 p.m.