

**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  
 MAY 10, 2010 – 6:00 P.M.**

<b>Board Members</b>	<b>Attendance</b>	<b>1/10 – 12/10</b>	
		<b>Cumulative Attendance</b>	
		<b>P</b>	<b>A</b>
Alan Stotsky, Chair	P	4	0
Eileen Helfer, Vice Chair	P	4	0
Lt. Glenn Galt	P	3	1
Sgt. William Schultz	A	2	2
Officer Nina Justice	A	2	2
Patrick Kerney	P	4	0
George Trodella	A	3	1
Roosevelt Walters	P	3	0

**Staff**

Sgt. Hector Martinez, Internal Affairs  
 Sgt. T. McCarthy, Internal Affairs  
 B. Chiappetta, Recording Clerk, Prototype, Inc.

**Guests**

None

**Communication to the City Commission**

None.

**A. Roll Call**

Chair Stotsky called the meeting to order at 6:00 p.m. and determined that a quorum of Board members was present.

**B. Approve Minutes of the Board’s April 2010 Meeting**

**Motion** made by Mr. Kerney, seconded by Ms. Helfer, to approve the minutes of the Board’s April meeting. In a voice vote, Board approved unanimously.

**C. General Information**

Chair Stotsky announced that the Board's June meeting would be held in the first floor City Commission chamber.

Sgt. Martinez announced that Capt. Maglione could not attend this evening. He informed the Board that from now on, their meetings would begin at 6:00 p.m.

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

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|-----------|---------------------|--|
| <b>1.</b> | <b>IA Case</b>      | 09-088   |
|           | <b>Complainant:</b> | Franklin C. Adderley, Chief of Police  |
|           | <b>Allegations:</b> | 1) Use of Deadly Force<br>2) Felony Stop(s)<br>3) Unsatisfactory Performance |
|           | <b>Officers:</b>    | Jason Hersh  |
|           | <b>Disposition:</b> | 1) Exonerated<br>2) Sustained<br>3) Sustained                                |

**Motion** made by Mr. Kerney, seconded by Mr. Walters, to support the findings of Internal Affairs regarding the Use of Deadly Force allegation. In a voice vote, Board approved unanimously.

Mr. Kerney said he had an issue with the Felony Stop and Unsatisfactory Performance allegations. He said he knew the area and the building well, and he felt the drive-through would have been the ideal spot to make this stop because Officer Hersh had the opportunity to box the suspects in without engaging in a car chase. Mr. Kerney added that the suspects were suspected of trying to pass a bad check, not for a more serious offense. He therefore thought Officer Hersh should have been exonerated on the last two charges as well. Ms. Helfer indicated she agreed with Mr. Kerney's opinion.

Chair Stotsky felt this was like a bank robbery. There was no felony stop because the car was not going anywhere. If this incident had occurred inside the building instead of at a drive-through, there would be no felony stop issue. Chair Stotsky believed this was a "dramatic injustice to the officer."

Mr. Walters admitted he had not read every word of the information provided, but he had reviewed the officer's training regarding different types of stops and had not seen one called "felony stop." He wondered what else Officer Hersh was expected to do in a situation such as this: allow the suspect to exit onto Broward Boulevard and engage in a car chase?

Sgt. Martinez remarked that an officer's training did not cover every situation. After reviewing the facts of this case, Internal Affairs felt that the best thing to do would have been for Officer Hersh to "control the stop, allow the vehicle to move and then conduct a 'high-risk' stop." Sgt. Martinez said, "By him coming from behind the vehicle and placing the other officer in jeopardy by blocking the vehicle forced the actions of the person who was behind the wheel."

Chair Stotsky remarked that this was the only bank drive through he knew of that was "confined to a building" and therefore lent itself well to "encasing the crime." He believed that allowing the suspect to exit onto Broward Boulevard would be "the biggest mistake of the century" that could have caused the suspect to run into a Police car coming in or to hit a pedestrian or another vehicle. Chair Stotsky believed the officer had done what needed to be done and done it properly.

Sgt. McCarthy said at the time Officer Hersh pulled up, "there was an expectation that we could do some follow up and get that vehicle later without endangering people's lives; it would not have been a pursuit down Broward Boulevard in this case."

Sgt. Martinez acknowledged that the Board was focusing on catching the suspect, but he pointed out that the Police must do this as safely as possible, and "if that day we have to let the guy go...the guy goes...in this situation, the stop needed to be controlled better." Sgt. Martinez said the officer or his partner could have been hurt and they must ensure that officers acted within policy and the safest way possible. An officer should not put himself in "officer jeopardy", and they believed Officer Hersh, by his actions, had done that.

Lt. Galt noted that Officer Hersh was accompanied by a trainee for whom he was responsible. He reminded the Board that Fort Lauderdale had experienced at least two officer involved shootings involving fraud in progress at banks and Officer Hersh should have known he was stepping into a dangerous situation. Whether or not the vehicle was moving, this was still a high-risk stop. It seemed to Lt. Galt that Officer Hersh "allowed events to dictate his actions instead of his actions controlling that situation and deciding what to do." Lt. Galt said Officer Hersh could have decided to put a blocking vehicle on Broward Boulevard but he had not taken the time to think through a plan of action.

Mr. Kerney thought the officer had taken what he thought was the best action at the time and he felt the officer should be exonerated of the last two allegations.

Lt. Galt stated officers were taught that "time is on your side" and there was no immediate danger in this case, so the officer had not needed to act in haste.

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**Motion** made by Mr. Kerney, seconded by Mr. Walters, to exonerate Officer Hersh of the Felony Stop allegation. In a voice vote, motion passed 4-1 with Lt. Galt opposed.

**Motion** made by Mr. Kerney, seconded by Mr. Walters, to exonerate Officer Hersh of the Unsatisfactory Performance allegation. In a voice vote, motion passed 4-1 with Lt. Galt opposed.

There being no further business before the Board, the meeting was adjourned at 6:41 p.m.

[Minutes prepared by J. Opperlee, ProtoType Services]