

**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  
NOVEMBER 8, 2010 – 6:00 P.M.**

**1/10 – 12/10**

<b>Board Members</b>	<b>Attendance</b>	<b>Cumulative Attendance</b>	
		<b>P</b>	<b>A</b>
Alan Stotsky, Chair	P	8	1
Eileen Helfer, Vice Chair	P	9	0
Marc Dickerman	P	3	0
Lt. Glenn Galt	P	7	2
James Jordan	P	3	0
Officer Nina Justice (6:03 p.m.)	P	7	2
Sgt. William Schultz	P	7	2
Roosevelt Walters	P	8	0

**Staff**

Capt. Rick Maglione, Internal Affairs  
Sgt. Hector Martinez, Internal Affairs  
Sgt. Timothy McCarthy, Internal Affairs  
Brigitte Chiappetta, Recording Secretary, Prototype, Inc.

**Guests**

Brennen Hamilton

**Communications to the City Commission**

None.

**A. Roll Call**

Chair Stotsky called the meeting to order at 6:00 p.m. A quorum was present.

**B. Approve Minutes from October 11, 2010**

**Motion** made by Mr. Walters, seconded by Vice Chair Helfer, to approve the minutes of the October 11, 2010 meeting. In a voice vote, the **motion** passed unanimously.

**C. General Information**

Capt. Maglione noted that the meeting dates have been changed in February and March 2011 due to a conflict in reserving the room. The new meeting dates will be February 22, 2011 and March 22, 2011. If there are no cases, the meeting will be canceled.

**D. Review the following Internal Affairs Investigations**

**1. IA Case 10-086**

**Complainant:**

Brennen Hamilton

**Allegations:**

1. Discourtesy
2. Unnecessary response to resistance
3. Refusal to give name, badge or CCN number, or both, upon request of any person
4. Intentionally making an unlawful arrest

**Officer:**

(Former) Jeffrey Overcash

**Disposition:**

1. Not Sustained
2. Not Sustained
3. Sustained
4. Not Sustained

Capt. Maglione noted that Brennen Hamilton, Complainant, was present in the audience and would be given an opportunity to address the Board regarding each of the allegations. Capt. Maglione explained the terms "findings" used in the investigation for Mr. Hamilton.

**Motion** made by Mr. Dickerman, seconded by Vice Chair Helfer, to accept the findings of allegation 1.

Officer Justice joined the meeting (6:03 p.m.).

Chair Stotsky asked to see a video clip provided by the Complainant, after which time the Complainant could address the Board. The clip was filmed by the Complainant's wife. Additional clips would be shown following the discussion of the allegation.

Mr. Walters said his understanding was that the discourtesy identified by the Complainant was "the first contact;" the clip shows "second contact."

Mr. Hamilton stated he leaned against the back of a parked Police car, smoking a cigarette, while waiting for a train to pass. At this time the Officer approached him, "grabbed [him] by the arm," and addressed him discourteously and provocatively, "trying to provoke me into... say[ing] something, to react so he has a reason to throw me in jail." Mr. Hamilton did not respond verbally to the Officer. A friend approached to tell him to return to the car. Mr. Hamilton said he "said

absolutely nothing” while returning to his car, at which time he called the Fort Lauderdale Police Department. The Department member who responded to the call instructed Mr. Hamilton to get the Officer’s name and badge number. He stated “that’s what I did and that’s what the video shows.”

After this, before he was placed inside the Police car, Mr. Hamilton said his handcuffs were extremely tight and painful. He said he asked the Officer to loosen the cuffs “and he would just make them tighter.” He said he and the Officer “were going back and forth, exchanging words,” and he was removed from the car, at which time the Officer “[squeezed] the cuffs as tight as he possibly could.” Mr. Hamilton said this caused him to lose sensation in his wrists for “two to three months,” and caused bruising and scraping. He concluded that he felt the Officer was discourteous and “there was no reason why I should have been arrested.”

Chair Stotsky asked why Mr. Hamilton was leaning on the Police car. Mr. Hamilton said he was waiting for the train to pass and leaned against the car, “barely touching” it. He said the recording would reflect that when he asked the Officer why he was arrested, he was told “for damage to City property.” He asserted that the Officer “lied in his Police report” by stating that Mr. Hamilton resisted arrest and added that “this guy... lies about almost everything.”

Vice Chair Helfer said Mr. Hamilton must have leaned against the car sufficiently hard for the Officer to “feel a jolt.” Mr. Hamilton denied this, stating he was leaning against the car for “30 to 45 seconds before he even came up to me” and moved away from the car when the Officer approached him. He reiterated that the Officer “was trying to get a reaction from me, wanted me to say something.”

Lt. Galt asked who filmed the encounter. Mr. Hamilton said his wife filmed the video clip. Lt. Galt asked why she had begun filming the event “even before you walked up to him.” Mr. Hamilton said this was because he “had a strong feeling I was going to get arrested.”

Lt. Galt said during the investigation, previous incidents involving Mr. Hamilton had been noted. He asked “How is it that you find yourself repeatedly in these type of situations?” Mr. Hamilton replied that “it shouldn’t happen,” and “there’s a breed of cops that just have the authority gets to the head,” which had happened during previous incidents. He described an encounter with a Police Officer during an auto repossession at which he requested the Officer’s badge number and was arrested for disorderly conduct. He described another incident involving a Lieutenant, also during an auto repossession, which he stated “shouldn’t have happened.”

Mr. Dickerman asked how many people were in the group to which Mr. Hamilton returned after the beginning of the incident. Mr. Hamilton said there were six

individuals. Mr. Dickerman confirmed that Mr. Hamilton had then called the Fort Lauderdale Police Department and was advised to get the Officer's name and badge number. He asked why Mr. Hamilton did not ask another individual to ask for this information. Mr. Hamilton replied that "a lot of them were intoxicated."

Mr. Dickerman asked who was driving the night of the incident. Mr. Hamilton said a friend who does not drink was driving. Mr. Dickerman asked why this individual was not asked to request the information from the Officer. Mr. Hamilton said he felt the same result would have happened to that person.

Mr. Walters asked if Mr. Hamilton was told by the Officer to "leave the area and not return" during the first encounter. Mr. Hamilton said he was told "get out of here." Mr. Walters asked if the Officer had said "leave and don't come back or you're going to be arrested." Mr. Hamilton said this did not happen. Mr. Walters asked if the Officer told Mr. Hamilton he would be trespassing if he returned. Mr. Hamilton said no. Mr. Walters asked if Mr. Hamilton had heard the friend who took him away from the encounter apologize to the Officer "for you being drunk." Mr. Hamilton said he felt the friend "said something to [that] effect... to get me away from him."

Mr. Walters asked if Mr. Hamilton had been drunk at the time of the incident. Mr. Hamilton said no. Mr. Walters asked why the friend would then imply to the Officer that Mr. Hamilton was drunk. Mr. Hamilton said "To get me out without me being arrested."

Mr. Walters asked if Mr. Hamilton was "more likely to be arrested if you're drunk." Mr. Hamilton said he neither said nor did anything. Mr. Walters said two Police Officers and perhaps two of Mr. Hamilton's witnesses were not certain whether or not Mr. Hamilton spoke.

Mr. Walters explained that these issues are "crucial" to his arriving at a conclusion on the case. He asked, "If you felt that you were going to be arrested, why go back?" Mr. Hamilton said he returned to get the Officer's name and badge number. He added that this was a very frustrating and angering situation to him, and he was cursing and speaking to himself as he returned to his car. He said his feeling was he should "complain to a Sergeant" in order to deal with the situation, and "I wanted something to happen" as opposed to not taking any action regarding the incident, which caused him to call in the complaint.

Mr. Walters asked why Mr. Hamilton would "act out" between leaving 2 Avenue and returning to his car. He noted that Mr. Hamilton's statement said he was "calling [the Officer] names and... raising hell in the back seat of the car" while he was taken to Police headquarters. Mr. Hamilton said he and the Officer were calling each other names, and the Officer "said he was going to take me out of the car and kick my ass." He said he felt this was why the Officer removed him

from the car while parked at the Police station. A video clip of this part of the incident was shown at this time with no audio.

Mr. Dickerman asked if Mr. Hamilton had called 911 or dialed the Police Department's direct line. Mr. Hamilton said he called the station directly.

Vice Chair Helfer asked why Mr. Hamilton would not "automatically know" to look at the Officer's name on his uniform if he deals often with the Police. Mr. Hamilton said he "didn't look at him" and looked the other way while the Officer was speaking.

Capt. Maglione referred to the video, stating that the Officer parked outside the station "to secure his weapon first" and pulls into the Department at 4:11 a.m. when the gates are opened. He said it could be seen that "he doesn't stop anywhere along the way." He confirmed that there were two stops at this location: outside the gate to secure the weapon, and inside the gate.

The Board members discussed the Officer's actions as seen on the video, including getting in and out of the car, retrieving his weapon, and driving to the Broward County Jail, while Mr. Hamilton was in the Officer's car.

Chair Stotsky said he understood Mr. Hamilton had been taken to the sally port "possibly to give him... an appearance ticket." Capt. Maglione said this was done for booking. He explained that most prisoners were booked "at our jail," but if the prisoner is "being unruly" or for other reasons, they can be direct booked at the County Jail.

Mr. Walters noted the allegation regarding removing Mr. Hamilton from the Police car and tightening his handcuffs, and asked whether this happened outside the gate or inside the gate. Mr. Hamilton said this occurred inside the secure area. Mr. Walters asked if this meant the video was "not factual." Mr. Hamilton said the video shows only one side of the Police car, although he did not recall which side of the car he was on at the time.

Mr. Walters asked if Mr. Hamilton recalled being offered a Notice to Appear rather than going to jail. Mr. Hamilton said he did not recall this. Mr. Walters asked if Mr. Hamilton mentioned the bruises and scrapes caused by the handcuffs when he was taken to the jail. Mr. Hamilton said he mentioned numbness in his hands to the nurse at the jail and was told it would be "fine" the next day. He said the numbness continued for "probably two months" and he eventually saw a neurologist.

Mr. Walters said if Mr. Hamilton had "sat still" in the back of the Police car, did he feel this would have had an effect on what happened. Mr. Hamilton said he did sit still, but was "mouthing off."

Capt. Maglione said the seats in the back of a Police car have a "pocket" in the back where handcuffs may go. Mr. Walters explained that the Officer had stated Mr. Hamilton was "thrashing around" in the back seat, and his question was whether the bruising on Mr. Hamilton's wrists could have come from this activity instead of the tightness. Mr. Hamilton repeated that "there was no thrashing."

Mr. Walters said one of the Officers had stated the damage to Mr. Hamilton's wrists could have resulted from cuffs that were too loose instead of too tight. Capt. Maglione said it was Internal Affairs' conclusion that this was the case due to where the injury was visible on Mr. Hamilton's hands rather than on his wrists. He noted that if someone pulls against handcuffs that are applied properly, this can also leave bruises.

Mr. Hamilton said when he was placed in the cruiser he had said the Officer "put the handcuffs on me wrong... and I was screaming." Mr. Walters said it seemed that if the handcuffs were placed where the damage occurred, the cuffs would slide back up. Mr. Hamilton asked Mr. Walters if he was suggesting that Mr. Hamilton had "purposely caused" the damage to his hands. Mr. Walters explained that he was "trying to understand your allegations" regarding the handcuffs.

Mr. Hamilton said he would like to know why the video at the Police station or jail did not show "certain angles," and asserted that "he took me out of that car at the Police station... squeezes the cuffs as hard as he possibly can and throws me back in the car." Capt. Maglione showed a different angle on the video, asking if Mr. Hamilton was sitting behind the driver's seat or on the other side. Mr. Hamilton replied he did not recall.

Chair Stotsky asked Mr. Hamilton if he was hurt "in the main jail" or at the Fort Lauderdale station. Mr. Hamilton said it was at the Fort Lauderdale station where he was booked. Sgt. Martinez noted that Mr. Hamilton was seated behind the driver at the Broward County Jail.

Mr. Dickerman asked if the health intake form showed an indication that Mr. Hamilton was injured. Mr. Schultz asked if the nurse had taken any notation regarding injuries. Mr. Hamilton said he informed an individual at the desk that he needed to see the nurse, who told him the injury "would be fine tomorrow."

Mr. Jordan asked Mr. Hamilton why he could not "give us a straight answer" regarding which side of the car he sat on. Mr. Hamilton said the incident happened in April. Mr. Jordan noted that he remembered other details, such as "the language," and he did not understand the discrepancy. Mr. Hamilton said he did not understand how a Police station did not "have every angle" shown to prove his allegations. He said he "obviously was on the right side of the vehicle"

from the footage shown, as the left side of the vehicle was shown but not the right side.

Mr. Dickerman asked if the Officer switched Mr. Hamilton from steel handcuffs to flexi-cuffs. It was clarified that the Officer did this at the Broward County Jail in order to take his handcuffs back. Mr. Hamilton said the steel cuffs were removed outside the jail but he did not remember being handcuffed when he was taken inside.

Capt. Maglione stated that Mr. Hamilton entered the secured area of the Broward County Jail at 4:28 a.m. The Officer did not remove Mr. Hamilton from the car until 4:47 a.m. Chair Stotsky asked Mr. Hamilton if anything happened before he was removed from the car. Mr. Hamilton said no. Mr. Walters said he was not certain the side of the car Mr. Hamilton was sitting on was related to the side on which he was taken out of the car at the jail, as he would have had only to slide across the seat.

Capt. Maglione said at 4:47 a.m. Mr. Hamilton was removed from the car and the steel handcuffs were replaced with plastic ones before being "handed over to the jail." Mr. Hamilton said they were inside the jail for some time, which was when the Officer "started to get sincere with me" and tell him it was "nothing personal." Mr. Hamilton said at that time he told the Officer "I would make sure he wasn't a cop anymore."

Sgt. McCarthy noted that Mr. Hamilton was taken out of the car on the driver's side according to the video. Mr. Hamilton asked again if the jail did not show "every single angle" of the car when it was there. Capt. Maglione said every angle was not shown.

Mr. Hamilton asked if at any point he and the Officer went "somewhere else within the Police station." Capt. Maglione said this did not happen, which was proven by the GPS readings from inside the car. Chair Stotsky said Mr. Hamilton was taken to the jail because the Officer "was afraid to take him out of the car and wanted to direct book because he was acting up in the back seat." Capt. Maglione said this was not uncommon in cases where an individual was not compliant.

Mr. Jordan said it did not seem that the Officer had an issue with Mr. Hamilton until he returned to the Officer to ask his name, although Mr. Hamilton's characterization of the incident seemed to show the Officer "just had it out for you." Mr. Hamilton asked if it seemed he was being rude or provocative to the Officer in the video. Lt. Galt stated that "That part of it was staged."

Mr. Jordan continued that Mr. Hamilton's version of events said the Officer "had an attitude... he just flipped out and just had it out for you." Mr. Hamilton said

there was no other explanation for the incident. Mr. Jordan asked why the Officer would let him walk away the first time. Mr. Hamilton asked why the Officer did not arrest him right away if he deserved arrest rather than waiting for him to return and ask for the Officer's name and badge number.

Capt. Maglione said the Officer had asked Mr. Hamilton to leave and not return. Mr. Hamilton asked if it was illegal for him to request the Officer's name and badge number. Mr. Dickerman said while the question is not illegal, when an individual is warned to leave and returns, he can be arrested and trespassed.

Mr. Hamilton asked why he was not immediately arrested for trespassing. Mr. Dickerman said he was allowed one warning. Capt. Maglione added that the charge of resisting includes "obstructing," which means an individual does not have to physically resist in order to be charged with resisting.

Mr. Hamilton asked why trespassing was not one of his formal charges. Capt. Maglione said he was charged with disorderly conduct, and said the Officer's position was that "your actions rose to the level of probable cause for an arrest." He was not arrested at once because his friend said Mr. Hamilton was intoxicated and he would take him away, but was arrested because "you came back."

He added that because Mr. Hamilton was returning to ask for something the Officer is required by policy to provide did not preclude the fact that he was returning after being told to "go away." This was considered violating a lawful order by a Police Officer. Capt. Maglione said he personally felt "discretion is the better part of valor, and that's why we sustained that he did not provide that information to you." However, he did not agree that Mr. Hamilton could have returned after being told to leave without being subject to arrest.

Mr. Dickerman **amended** his **motion** as follows: **motion** to accept the findings of not sustained on charges 1, 2, and 4. Mr. Jordan **seconded** the **motion**. In a voice vote, the **motion** passed unanimously.

**Motion** made by Mr. Walters, seconded by Vice Chair Helfer, to accept the findings of Internal Affairs [on allegation 3]. In a voice vote, the **motion** passed 7-1 (Mr. Dickerman dissenting).

**2. IA Case 10-097**

**Complainant:**

Russell L. Sweeney

**Allegations:**

1. Unnecessary response to resistance
2. Violation of Conducted Energy Device Dept. policy
3. Knowingly making or signing any false or inaccurate statement in any official



investigation, report, or record or attempting to induce or cause another to do so

4. Failure to file a Police report promptly
5. Conduct unbecoming
6. Failure to conduct a complete or proper Police investigation

**Officer:**

Michael Holdorff

**Disposition:**

1. Unfounded
2. Sustained
3. Not Sustained
4. Sustained
5. Not Sustained
6. Sustained

Chair Stotsky noted that there was video available for this case as well. Mr. Walters noted he was interested in seeing a single portion of the video, in which the Trainee did or did not pick up a baggie from the ground and hand it to another Officer.

Chair Stotsky asked the Board members to discuss all the charges, beginning with allegation 1, "Unnecessary response to resistance." Mr. Walters asked if this term replaced "unnecessary use of force." Capt. Maglione confirmed this. He noted that the policy in effect at the time of the incident was "CED," as opposed to the current use of "ECD." He explained that they had to "abide by the policy that was in effect at the time," although the primary change was the name of the policy. The allegation was found to be unfounded by Internal Affairs.

**Motion** made by Mr. Dickerman, seconded by Mr. Walters, to accept the findings. In a voice vote, the **motion** passed unanimously.

Chair Stotsky moved on to allegation 2, "Violation of Conducted Energy Device Dept. policy." This allegation was found to be sustained by Internal Affairs.

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

Mr. Walters asked how the Officer could use the device "without anybody knowing it." Capt. Maglione said policy requires an Officer to "self-report." Mr. Walters explained that there was "struggling with an individual" when the device was used. Capt. Maglione said the cartridge was removed and the Officer "tried to use it like a stun gun instead of a Taser" and physically touch the individual. He explained that the Officer failed to self-report his use of the device.

Chair Stotsky moved on to allegation 3, "Knowingly making or signing any false or inaccurate statement in any official investigation, report, or record or attempting to induce or cause another to do so." This allegation was found to be not sustained by Internal Affairs.

Capt. Maglione said Internal Affairs felt allegation 4 was a more appropriate charge in this case, as allegation 3 means someone would "intentionally falsify" a report. Mr. Walters noted that some time had elapsed between the incident and the time the Officer wrote the report.

**Motion** made by Vice Chair Helfer, seconded by Mr. Walters, to approve findings. In a voice vote, the **motion** passed unanimously.

Chair Stotsky moved on to allegation 4, "Failure to file a Police report promptly." This allegation was sustained by Internal Affairs.

**Motion** made by Mr. Dickerman, seconded by Officer Justice, to accept. In a voice vote, the **motion** passed unanimously.

The Board moved on to allegation 5, "Conduct unbecoming." This allegation was not sustained by Internal Affairs.

**Motion** made by Vice Chair Helfer, seconded by Mr. Jordan, to accept the findings. In a roll call vote, the **motion** passed 8-0.

The Board moved on to allegation 6, "Failure to conduct a complete or proper Police investigation." This allegation was sustained by Internal Affairs.

**Motion** made by Mr. Dickerman, seconded by Lt. Galt, to accept the findings. In a voice vote, the **motion** passed unanimously.

There being no further business to come before the Board at this time, the meeting was adjourned at 7:07 p.m.