

**CITIZENS POLICE REVIEW BOARD MEETING
CITY OF FORT LAUDERDALE
CITY HALL 8TH FLOOR CONFERENCE ROOM
100 NORTH ANDREWS AVENUE
FT. LAUDERDALE, FLORIDA 33301
December 12, 2011 – 6:00 P.M.**

Board Members	Attendance	1/2011 – 12/2011 Cumulative Attendance	
		P	A
Alan Stotsky, Chair	P	4	0
Eileen Helfer, Vice Chair	P	4	0
Marc Dickerman	P	4	0
Ted Fling	P	4	0
Lt. Glenn Galt	P	4	0
James Jordan	P	4	0
Officer Nina Justice	A	2	2
Roosevelt Walters	P	4	0

A quorum was present for the meeting.

Staff

Frank Adderley, Police Chief, Fort Lauderdale Police Department
Michael G. Gregory, Internal Affairs Captain, Fort Lauderdale Police Department
Mike Tucker, Fraternal Order of Police
Lieutenant Jon Appel, Fort Lauderdale Police Department
Charlotte Rodstrom, City Commissioner

Communications to City Commission

None.

A. Roll Call

Chair Stotsky called the meeting to order at 6:01 p.m. and roll was called. It was noted a quorum was present.

B. Approve Minutes from June 13, 2011

Motion made by Mr. Walters, seconded by Lt. Galt, to approve the minutes of the June 13, 2011 meeting. In a voice vote, the **motion** passed unanimously.

C. General Information

Chair Stotsky introduced Chief of Police Frank Adderley to the Board, Staff, and guests. He noted that the case before the Board tonight was for purposes of discussion only. The Staff and members of the public present identified themselves at this time.

Chair Stotsky stated that in 2006, the City Attorney's Office had produced a document stating that the Ordinance creating the Board referred to citizen complaints in its title; however, language of the Ordinance indicated that all complaints dealing with sworn Officers and investigated by the Internal Affairs Board [IAB] would be reviewed by the CPRB, with no discretion by the Police Department regarding which files are reviewed. Decisions made by the Police Department have been made before a case comes before the CPRB. Chair Stotsky noted that the Board may only recommend actions to the City Manager.

Mr. Walters explained that when the Board was first created, all complaints came before them for review, and they saw several cases per month. When fewer cases began to come before the Board, some members were concerned, as this limited their ability to have input on the investigation of complaints. Since 2006, however, the Board only sees complaints that have been made by citizens against Police Officers. He concluded that he is very disturbed by this.

It was noted that the Board's purpose, as stated on each Agenda, includes the phrase "Review all complaints investigated by the Internal Affairs Division of the Police Department." Mr. Walters pointed out that this statement does not refer only to complaints filed by citizens. He said it seems the Board has gone from being able to make a difference in the community and foster trust in the Police Department to meeting only a few times during the year.

Mr. Fling remarked that the last case to come before the Board was two years old. Chair Stotsky commented that a case cannot be brought to the Board before decisions are made, which sometimes takes a matter of years. Mr. Walters stated that his concern was if the Board is to provide input to the City Manager, the City Manager is supposed to look at their recommendations, along with those of the Chief of Police, before making his own recommendation with regard to the disposition of the case. At times, he noted, the Officer involved in the case may no longer be with the Police Department before the Board sees the case, which means no further action can be taken.

Chair Stotsky stated that this had been the case as long as he had been involved with the Board. Mr. Walters clarified that his concern was for the process itself, as it did not make sense to him for the Board to review a case if the only action they could take was discussion.

Vice Chair Helfer requested clarification that the Board cannot review a case before it is returned from the State Attorney's Office, if the case required criminal

investigation. This was often the reason it was so much later before a case made its way to the Board. Chair Stotsky confirmed this.

Mr. Fling noted that it made no sense when a very long time is taken to review a relatively simple case, and the State Attorney's Office should have greater faith in the work of the Police Department and the Board. Chair Stotsky said while this is true, the Board should continue to follow the Ordinance unless the City Commission decides it should be changed. He felt they should make a recommendation on what should be done regarding the Ordinance.

City Commissioner Rodstrom asked what the Board felt would help the situation, noting that the Commission would like to be able to empower the Board to see more cases. She recalled that there was discussion as early as 2007 with regard to strengthening the Ordinance.

Chief Adderley commented that while he had not attended the City Commission workshop in 2006, the Police Department has responded to direction from the Commission regarding which cases are submitted to the Board. The Commission had reached their decision based upon recommendations made by the City Attorney at that time.

Commissioner Rodstrom advised that the Board could submit a communication to the City Commission regarding changes to the Ordinance that could help to better serve the community. She explained that the current City Commission has empowered City advisory bodies to make recommendations through a communication to the City Commission. These communications are brought up for discussion at the City Commission's Conference Agenda meetings. She recommended that any specific changes the Board would like to make to the Ordinance be submitted in this way.

Mr. Fling suggested that the Board could also ask the City Commission for a workshop to discuss specific directions they would like to take. Mr. Walters recalled that in 2007, he and other Board members had attempted to explain to the City Commission how the Board's ability to give input was limited. He said he did not know that there was any new information for the City Commission, whether it was sent as a communication or discussed in a workshop that the Commission had not previously heard.

Commissioner Rodstrom advised again that the Board should first send a communication to the City Commission, so the Commission could discuss the issue. If the Board felt they were not screening enough incidents and wanted a higher level of scrutiny, this should be communicated to the Commission as well.

Mr. Walters said at present the Board may only sustain or not sustain the findings of Internal Affairs, while in the past they were able to recommend training or

procedural changes. He felt this had a greater impact on both the Police Department and the community, as individuals believed the Board could make a difference for them if they felt wronged. Commissioner Rodstrom agreed that this was a valid concern.

Chair Stotsky noted that the Board needed support from the City Commission if they took up the issue of changes to the Ordinance. Commissioner Rodstrom cautioned that a consensus of the City Commission, or three votes, would be required to make any such changes. She reiterated, however, that the Board's concern was a valid one, and should be discussed further by the City Commission.

Chief Adderley stated that the Police Department has no control over the amount of time taken by the State Attorney's Office: when there is a criminal allegation, that Office must conduct a criminal investigation, and certain complex investigations take more time to complete. The Police Department's own administrative process does not begin until the criminal case has been resolved. He added that if the case is sustained, the Police Department must complete its investigation within 180 days in order to take any disciplinary action necessary; if the investigation is not complete by this time, no action may be taken.

He observed that the City Manager, to whom the Board makes its recommendations, has the final say on what action is taken, and may even overrule the Police Chief. For this reason, he felt it was not true that the Board's recommendations "go nowhere," as they go to the individual who makes the final decision. Chief Adderley stated that since he has been Chief, the Police Department has followed the direction of the City Commission with regard to which cases come before the Board, and will continue to do so unless this direction is changed.

Chief Adderley stated that many of the high-profile cases involving the Police Department were initiated from within the Department itself, and would not come before the Board because they were not brought forth by a member of the public. If an Officer initiates a case against another Officer, for example, that case would not be heard by the Board.

Mr. Walters said he understood Chief Adderley's position, but explained that his concern was with cases that have come back to the Police Department from the State Attorney's Office. He said if a reprimand or suspension is issued, the Officer has already served the suspension or received the reprimand before the case is heard by the Board. Chief Adderley replied that the disciplinary process does not happen as quickly as the Board members may think: once a disciplinary action has been issued by the Department, a third step in the process is initiated by the union. The case is then brought before the Board so they can make their recommendation to the City Manager. The fourth step occurs when the City

Manager makes the final determination on what disciplinary action is taken. If an Officer has signed a letter of suspension, for example, it does not mean the suspension has begun, as the Officer is entitled to an appeal.

Mr. Walters stated again that the Board's purpose statement refers to "all complaints investigated by the Internal Affairs Division," without specifying that these complaints must be initiated by citizens. Chief Adderley said while he had not been part of the workshop in 2007, he was aware of the direction given to the Police Department by the City Commission and must comply with this direction. The only way this direction can be changed is through the Commission.

Chair Stotsky said the Board needs to develop a plan of action in order to make changes. Mr. Dickerman suggested that since there is now a different City Commission than the one that gave direction in 2007, the Board should send a communication to the Commission, making its own recommendation regarding changes they would like to see.

Motion made by Mr. Dickerman, seconded by Mr. Walters, that Chair Stotsky send a communication to the Commission.

Chair Stotsky requested that two to three Board members assist him in writing a communication to the City Commission. Mr. Walters noted that this would be prohibited by the Sunshine Law; however, the Chair and Board members may communicate through the secretary's office to craft a communication, which could be discussed at the next meeting.

Mr. Walters asked if Mr. Dickerman would be willing to request a workshop in his **motion**. Mr. Dickerman **amended** the **motion** as follows: to send a communication requesting a workshop with the City Commission. Mr. Walters **seconded** the **amended motion**.

Mr. Fling asked if the Board should meet again in order to define what they would like to ask the City Commission. It was noted that this could necessitate a special meeting. Chair Stotsky agreed that a special meeting could be called in January 2012 to discuss this further.

D. Review the following complaint (*for discussion only*)

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|------------------------|--|
| 1. Complainant: | Ms. Valerie Jenkins (Complaint: 11-136) |
| Allegations: | 1) Discourtesy
2) Use of vulgar, obscene or offensive language while acting in an official capacity |
| Officer: | Dale Iben |
| Disposition: | 1) Not Sustained
2) Sustained |

Officer: Jody Thornfohrde
Disposition: 1) Not Sustained
2) Unfounded

Chair Stotsky reiterated that this Item was for discussion only. Although the complaint was made by a citizen, it was not investigated by Internal Affairs, and therefore had not come before the Board. Chief Adderley clarified that this case was investigated by a Sergeant assigned to the Patrol Division.

Mr. Walters asked why the case had not gone to Internal Affairs. Chief Adderley explained that it was a Category 2 complaint, and Internal Affairs handles primarily Category 1 complaints.

Chair Stotsky requested clarification of Category 1 and Category 2 complaints. The Board was provided with an excerpt of the processing policy used by Internal Affairs.

Captain Gregory noted that Category 1 complaints are considered more serious, and include issues such as false arrest, excessive or unnecessary use of force, and criminal violations. Serious acts of misconduct and allegations of racial, sexual, or workplace harassment are also Category 1 complaints. The most resources are dedicated to these issues. Internal Affairs also has discretion to investigate Category 2 complaints that "need special handling," such as supervisory or command misconduct; however, their primary responsibility is to investigate Category 1 complaints.

When a Category 2 complaint is received, it can be recorded into Internal Affairs for tracking purposes. If a complaint is made against a particular Officer, that Officer's supervisor is notified, and the Major and/or Shift Commander makes the decision regarding the level at which they would like the complaint to be investigated. If a Category 2 complaint is significant, the Officer's direct supervisor, the Shift Commander, and possibly the Major may be involved in the investigation. The same procedures used by Internal Affairs are followed when a Category 2 complaint is investigated, as specified by the Officer Bill of Rights and the union contract.

The complaint is thoroughly documented and statements are taken from the accuser, witnesses, and the Officer him- or herself. When these steps are complete, a recommendation is made from Command Staff to the Police Chief regarding what disciplinary action should be taken. Once this has been processed and/or concurred with, the case is sent back to Internal Affairs for recording purposes.

Chair Stotsky noted Ordinance 94-47, which states that while the Ordinance creating the CPRB refers to citizens' complaints in its title, the plain language

indicates that all complaints dealing with sworn Officers and investigated by Internal Affairs shall be reviewed by the Board, without discretion. A complaint is defined as "a specific allegation of either misconduct or inadequate Police service." He asked if this fit the description of a Category 2 complaint. It was noted that a key element in the Ordinance is whether or not a complaint is investigated by Internal Affairs: if the investigation is conducted by this Division, it will ultimately be seen by the Board.

Chair Stotsky asked if a complaint initiated from within the Department would be seen by the Board. Captain Gregory explained that external complaints investigated by Internal Affairs would eventually come before the Board; however, internally generated complaints would not. It was clarified that serious internal complaints, such as actions resulting in injury or death, actions involving pursuit, or the discharge of a firearm, did not fit within the current interpretation of the Ordinance, as they did not involve complaints made against the Police Department by citizens, and would not come before the Board.

Chair Stotsky observed that most complaints made by citizens would be reviewed by an Officer's Captain or other superior Officer, rather than by internal affairs. It was clarified that complaints of this nature, such as discourtesy, malingering, or other inappropriate actions would be handled by the Officer's command.

It was requested that the Board see a listing of how many Category 1 and Category 2 complaints have been made during the last five years, so they could determine how many of these cases have been reviewed by the Board. Chair Stotsky said this would be added to the Board's requests to the City Commission.

Captain Gregory noted that some complaints are initiated by citizens who later decide they would not like to pursue the issue. In these situations, the complaints are withdrawn and held in abeyance until a future date. This often occurs when an individual is facing pending criminal charges and may have received legal advice that pursuing a complaint on record is not in their best interest. The Department respects these individuals' decisions to proceed or not to proceed at a given time.

Chief Adderley offered the example of an individual arrested for battery against a Police Officer. The individual may make a complaint that excessive force was used by that Officer; however, if the individual makes a statement that incriminates him- or herself, this statement or admission may be harmful at that individual's criminal trial. Individuals are read their rights when statements are made, so they are aware that the statements may be used against them. In addition, as there is no statute of limitations on citizens' complaints, the complaint may not be made until after criminal proceedings have concluded.

Mr. Walters noted that the **motion** made earlier was still on the table at this time. Mr. Dickerman restated his **motion** as follows: to send a communication to the City Commission to review the Ordinance and have a workshop, and to request a number of complaints.

In a voice vote, the **motion** passed unanimously.

It was pointed out that complaints that have been withdrawn should not be listed in the complaint statistics requested by the Board. Mr. Walters noted that complaints withdrawn or dismissed would be designated as such.

Ed Parke, private citizen, said he would expect the Board to have taken action over the years to represent citizens who were wronged by a specific group of individuals. Mr. Walters said the Board did not have the power to subpoena individuals or stop Officers from doing wrong. They may only comment on the investigations conducted by Internal Affairs. Chief Adderley explained that the cases to which Mr. Parke referred were criminal investigations being handled by the State Attorney's Office. He referred Mr. Parke to that Office if he felt there were additional actions that should be taken.

Jayne Post advised that the Board should request to see the number and status of pending Category 1 and Category 2 cases as well as cases that are closed. She also suggested that individual citizens could write to the City Commission on behalf of the Board. Chair Stotsky said the Board would also like to know how many active or pending cases came from citizens' complaints.

Mr. Parke said he would like to know how the Board defined "investigation." Chair Stotsky clarified that the cases seen by the Board are brought by citizens and investigated by Internal Affairs; the Board does not conduct any investigations.

Valerie Jenkins, Complainant, stated that she was not happy with the results of the investigation of her case. She said both Officers' attitudes toward her were unfair and discriminatory, and that they ignored her when she requested information from them. She pointed out that she did not speak as quickly as a native speaker of English, and they had not had the patience to talk with her. She said one of the Officers had called her "retarded." She did not feel her case should have been a Category 2 complaint.

Chair Stotsky asked if Ms. Jenkins was aware of what had happened to the Officers involved in her case. Ms. Jenkins said she had been interviewed by a Captain, who had stopped recording her statement before she was finished.

Chief Adderley asked Ms. Jenkins which part of the result made her unhappy. Ms. Jenkins said she had not been asked any questions. She continued that Officer Thornfohrde was "very angry," and Officer Iben had told Ms. Jenkins she

“[acted] like one of the retarded” when she tried to speak to him. When she asked for his name, she said Officer Iben had told her to “look at [his] badge.”

Chair Stotsky asked Ms. Jenkins if she understood what it meant for her complaint against Officer Iben to be Sustained, and if she knew what had happened to that Officer. Chief Adderley explained that Officer Iben had received disciplinary action as a result of Ms. Jenkins’ complaint. He asked again what part of the result left her unhappy. Ms. Jenkins said when she had asked for more information about the investigation, she was told it could not be given to her, as the investigation was internal and had been closed.

Chief Adderley provided Ms. Jenkins with a full copy of her case. He explained that the investigator had found her complaint to be Sustained, which meant the investigator believed her statement. Chair Stotsky thanked Ms. Jenkins for her time.

Mr. Tucker asked that the Board clarify its request to see statistics of “all cases.” Mr. Walters clarified that this meant cases that went to Internal Affairs. He asserted that when the Board saw both Category 1 and Category 2 complaints, this had been beneficial for both the community and the Police Department, as the Board had sometimes agreed with Officers and disagreed with the Police Chief.

Mr. Tucker requested clarification of the change the Board was asking for, as they currently saw only cases reviewed by Internal Affairs. Mr. Walters said it was very difficult for him to believe that between June 2011 and December 2011, there were no cases for the Board to review. He stated that the Board’s intent was to build trust between the Police Department, the City Manager, and the community, so the members of the community believed that they would get justice if they filed a complaint.

Mr. Tucker asked Chair Stotsky to explain what change the Board was seeking from the City Commission. Chair Stotsky said the Board would need to have another meeting to discuss this further. It would then be submitted in the form of a communication to the City Commission. He confirmed that the **motion** was for purposes of discussion and was not an actual request made to the Commission at this time.

With regard to Mr. Walters’ concern that there were apparently no cases between June and December, Captain Gregory noted that there were no completed Internal Affairs cases. This did not mean that no complaints were received during this time period. Chair Stotsky asked if the Board’s request to see pending cases would reflect how many cases they may see in 2012. It was noted that the Board defined “pending” cases as those cases at the State Attorney’s Office. They would receive a count of how many criminal cases have not yet been sent back

to the Police Department by the State Attorney's Office. The other categories for cases would be "active" or "closed."

Chair Stotsky asked if this meant Mr. Walters' question could be answered with the number of cases that could potentially come before the Board in 2012, as they are still being reviewed or investigated at this time. This was confirmed.

Jayne Post, private citizen, said the intent of the Board's request seemed to be that they would like to know what is going on whether or not they meet. She suggested that the Board might request a periodic update on pending, active, or closed cases. Chair Stotsky agreed he would be more comfortable knowing this, as it meant while meetings might be canceled at present, a great many cases might come before the Board at a later time. He noted that this might mean the Ordinance does not need to be changed.

Mr. Parke said he felt the Board could make a greater difference if cases came to them before their disposition, as they would not feel that they were "rubber-stamping" decisions that were already made. Chair Stotsky pointed out that the Board was not going to see active cases: their purpose was to review cases after their disposition to ensure that the citizens' and Officers' interests were satisfactorily addressed, and that appropriate disciplinary action was taken if necessary. Chief Adderley reiterated that the final decision on any case was made by the City Manager, who would take the Board's recommendations into account before making this decision.

There being no further business to come before the Board at this time, the meeting was adjourned at 7:22 p.m.

[Minutes prepared by K. McGuire, Prototype, Inc.]