

**CITIZENS POLICE REVIEW BOARD MEETING
 CITY OF FORT LAUDERDALE
 CITY HALL 8TH FLOOR CONFERENCE ROOM
 100 NORTH ANDREWS AVENUE
 FT. LAUDERDALE, FLORIDA 33301
 February 13, 2012 – 6:00 P.M.**

| Board Members | Attendance | 1/2012 – 12/2012 Cumulative Attendance | |
|--------------------------|-------------------|---|----------|
| | | P | A |
| Alan Stotsky, Chair | P | 2 | 0 |
| James Jordan, Vice Chair | P | 2 | 0 |
| Lt. John Appel | P | 2 | 0 |
| Marc Dickerman | P | 2 | 0 |
| Ted Fling | A | 1 | 1 |
| Lt. Glenn Galt | P | 2 | 0 |
| Eileen Helfer | P | 2 | 0 |
| Officer Nina Justice | A | 1 | 1 |
| Roosevelt Walters | P | 2 | 0 |

It was noted that a quorum was present for the meeting.

Staff

A/Captain Dana Swisher, Internal Affairs, Fort Lauderdale Police Department
 Sergeant Michael Dodson, Internal Affairs, Fort Lauderdale Police Department
 Sergeant Bill Schultz, Internal Affairs, Fort Lauderdale Police Department
 Officer Aaron Wright, Fort Lauderdale Police Department
 Jack Lokeinsky, President, Fraternal Order of Police
 Amanda Lebofsky, Recording Secretary, Prototype, Inc.

Guests

Jennifer Lokeinsky, Member of the Public
 Willie James Lacue, Jr., Witness
 Larry Barszewski, Fort Lauderdale *Sun-Sentinel*
 Denise DiPalo, Administrative Aide

Communications to City Commission

None.

A. Roll Call

Chair Stotsky called the meeting to order at 6:00 p.m. Roll was called and it was noted a quorum was present. Staff members and guests introduced themselves at this time.

B. Approve Minutes from January 9, 2012

Motion made by Mr. Dickerman, seconded by Mr. Walters, to approve the minutes of the January 9, 2012 meeting. In a voice vote, the **motion** passed unanimously.

C. General Information

Chair Stotsky noted that the two items on the Agenda would be taken out of order.

Capt. Swisher advised that he would serve as Liaison to the Board in Capt. Gregory's temporary absence. Capt. Gregory is currently attending the FBI Academy.

Chair Stotsky advised that the Board will see four to five cases at their next meeting. He added that he has met with the City Manager and City Attorney since the previous meeting, and they had suggested that the Board make sure the statistical information they recently received was accurate information. The City Auditor can audit this information if desired.

Vice Chair Jordan asked to know the status of a proposed workshop between the Board and the City Commission. Chair Stotsky said the Board was refused a workshop by the City Manager and City Attorney. He stated he did not expect the Ordinance to be changed, or that the kinds of cases that came before the Board would be any different. His question had been whether or not the Board was seeing all the cases under its purview, and the number of current and upcoming cases suggested that these had indeed been delayed in the pipeline.

Vice Chair Jordan commented that he had thought the Board might look at the responsibilities of similar committees in other municipalities in order to better define the Board's charge. Chair Stotsky said the Ordinance dictates what the Board can or cannot do. He recommended that the Vice Chair raise the issue with the City Commissioner who had appointed him in order to hear what that individual had to say.

Mr. Lokeinsky pointed out that it would be difficult to ask an Officer to testify before the Board prior to any testimony he or she may give in a criminal trial, as the criminal trial may not have occurred yet. He also noted that the Board serves as a second step in the disciplinary process. He advised that the goal is for cases to come before the Board in order to ensure that Internal Affairs had conducted a proper investigation. He stated that he felt the Board accomplishes this goal. He proposed that if they wished to make the Board's scope larger, he would sit down and work with the members to try to do so.

Mr. Walters pointed out that there is nothing the Board can do except agree or disagree with the findings of Internal Affairs. Mr. Lokeinsky agreed, noting that this was the purpose of an advisory body. He noted that in order to give the Board sufficient authority to change disciplinary findings, they would have to be made part of the disciplinary process, which would involve collective bargaining and/or the Officers' Bill of Rights.

Mr. Walters explained that the issue is not whether or not the Board may impose punishment, but that the original Ordinance stated they could make recommendations to the City Manager regarding appropriate discipline. He asserted that this is no longer part of the amended Ordinance. Mr. Lokeinsky suggested that he could work with the Board to facilitate allowing them to do some of the things they hoped to accomplish.

Mr. Walters proposed that the next time there were no cases before the Board when a meeting was scheduled, the members might use this time to work with Mr. Lokeinsky on this issue. Mr. Lokeinsky said he would try to make himself available for this purpose. Chair Stotsky agreed with this suggestion as well.

D. Review the Following Internal Affairs Investigations

1. **Complainant:** Mr. Timothy Brown (IA Case 11-165)
Allegation: Deadly Force
Officer: Robert Morris
Disposition: Exonerated

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

2. **Complainant:** Mr. Troy Thomas (IA Case 11-108)
Allegations:
1) Failure to conduct a complete or proper Police investigation
2) In Car Video Policy – Traffic Stops
3) Use of vulgar, obscene or offensive language while acting in an official capacity
4) Computer-Aided Dispatch System – Traffic Stops
5) Neglecting to wear proper uniform while on duty
Officer: Aaron Wright
Dispositions:
1) Sustained
2) Not Sustained
3) Sustained
4) Not Sustained

5) Sustained

Chair Stotsky introduced Officer Aaron Wright, who would address the Board. Mr. Walters noted that a witness, Willie James Lacue, Jr., was also present.

Officer Wright stated that on August 15, 2011, he was working a basketball tournament at the YMCA. He explained that while one Officer worked inside the building with the tournament, another Officer would be outside to ensure there were no auto break-ins. Officer Wright clarified that he was the Officer outside the building.

On the night in question, Officer Wright recalled that he was in a great deal of pain, as he had been in an on-duty car accident several months before. When his partner informed him that the game was over, Officer Wright removed his gun belt and went to his car. Directly behind his car, an individual named Troy Thomas was involved in a verbal dispute with his child's mother. Officer Wright monitored this situation while speaking with his partner.

He continued that at one point, the argument went out of control, and Mr. Thomas reached into the car to strike the female, who replied with an obscenity and told Mr. Thomas he would "go to jail tonight." At this time Officer Wright confirmed the female individual's statement, assuring Mr. Thomas that if he struck the victim, he would go to jail.

Officer Wright stated that Mr. Thomas's voice became louder and grew angry, telling the Officer to "mind [his] business." Officer Wright spoke to Mr. Thomas about his behavior, stating that he was creating a disturbance. Mr. Thomas responded with an obscenity and told Officer Wright that he was "a woman-beater," and reiterated that Officer Wright should mind his own business. Following this response, Officer Wright put his gun belt on once again, as he was aware he would have to intervene.

Officer Wright said he felt it would be a safety issue if he went into the crowd to deal with Mr. Thomas at this time; in addition, he felt if he had approached Mr. Thomas in front of his friends and the female, it would not have allowed Mr. Thomas to save face. Officer Wright told Mr. Thomas to leave the property, knowing he would stop Mr. Thomas further down the street to investigate the issue further. When Mr. Thomas and his friends had gotten into their own vehicle and gone roughly 50 feet from where the incident had begun, Officer Wright stopped their car and spoke to Mr. Thomas about what had happened.

He noted that one charge against him, found to be sustained, was failure to conduct a proper investigation. Officer Wright referred to a letter from Capt. Swisher to the Chief of Police, in which the Captain stated that Officer Wright failed to stop the female victim from fleeing the scene. He explained that he was

focused on Mr. Thomas and his two friends, and did not see the victim leave the scene. Officer Wright stated that in his experience, a Police Officer is expected to stop a perpetrator and not a victim in most cases: the victim remains in the area if he or she wishes to file a report.

He observed that the letter to the Chief of Police also states that once in custody, Mr. Thomas informed Officer Wright that he was on probation. Officer Wright confirmed this, explaining that once Mr. Thomas was in the back of the Officer's car, he was very upset and told Officer Wright he had been arrested twice before for aggravated battery against the same female victim. The letter says Officer Wright did not verify Mr. Thomas's comment; however, the paperwork listing Exhibits of Evidence shows that Officer Wright ran Mr. Thomas's name past dispatch to find out if he was on probation or under any warrants.

Officer Wright continued that the Internal Affairs description of the incident suggests that the Officer "stood back" and allowed the victim to remain in harm's way because his gun belt was off. He stated that this was inaccurate, and that he took action as soon as he observed there was an incident in progress.

Regarding the detail assignment, Officer Wright noted that the Internal Affairs report states he was on duty and wearing his gun belt. He pointed out that he was present to work the basketball tournament, and the tournament had concluded for the night, which meant the detail was complete and he was off duty; he remained at the scene as a courtesy to the coordinator. He noted that off-duty policy does not require an Officer to wear his gun belt to or from work.

Another statement in the Internal Affairs report cites that Officer Wright failed to get information from the female victim before she left the scene. Officer Wright said in hindsight, perhaps he should have advised the victim to remain on the scene; he had not done so because he did not expect her to leave under the circumstances. He pointed out that Mr. Thomas had made the original complaint, citing the female victim and two of his friends as witnesses. The only independent witness interviewed by Internal Affairs was the tournament coordinator.

Officer Wright stated that there were other potential independent witnesses from both basketball teams who were not contacted by Internal Affairs. He observed that Mr. Lacue, who was a referee at the tournament, was the only independent witness present tonight. He also informed the Board that he had left the detail, as Mr. Thomas was allowed to continue to play in the basketball tournament and Officer Wright did not want there to be further conflict.

He continued that more than one month after the incident, Mr. Lacue had approached him to advise there was an Internal Affairs investigation into the incident at the tournament. Officer Wright had not had prior knowledge of the

investigation. Mr. Lacue advised that in the Officer's absence, Mr. Thomas and his friends had referred to "the lies that they had told Internal Affairs." Officer Wright advised Mr. Lacue that although he had not been informed about the investigation, he would not be able to comment on it; however, he encouraged Mr. Lacue to contact Internal Affairs if he had any further information about the incident.

He concluded that his letter of reprimand was drafted by Operations Captain Dave Wheeler, which violates the policies and procedures that Internal Affairs must follow. Policy 117.4 Delta 1 states that "any...letter of reprimand...resulting from an Internal Affairs investigation category 1 or category 2 shall be drafted by the Captain of Internal Affairs." Officer Wright said he did not know how Captain Wheeler became involved in the investigation, and expressed concern that some information had been lost, as the letter of reprimand was not consistent with some facts of the case.

Willie James Lacue, Jr., witness, stated that he had been a referee at the basketball tournament. He said he had seen Officer Wright in the community prior to the incident, but did not know him personally. He continued that he had not personally witnessed the incident that occurred after the basketball game. He had not contacted Internal Affairs to inform them of this because in his experience, it was difficult to get in touch with that Department.

Chair Stotsky asked if Mr. Lacue had been informed that Mr. Thomas lied to Internal Affairs. Mr. Lacue explained that Mr. Thomas had told him he had instructed the female victim to sign a dishonest statement about the incident. Mr. Walters asked if Mr. Lacue had witnessed any part of the incident in which Officer Wright and Mr. Thomas were involved. Mr. Lacue said he had not.

At this time Chair Stotsky opened the public hearing. As there were no members of the public wishing to speak on the Item, he closed the public hearing and returned the discussion to the Board.

Mr. Dickerman asked Officer Wright why he had not simply defused the situation and allowed Mr. Thomas to drive away rather than stopping him, particularly since the female victim had left the scene. Officer Wright said he had done this because Mr. Thomas had been leaning into the victim's car and had also tried to hit the victim in the face. Officer Wright said he had decided to act in case Mr. Thomas returned to the victim at a later time and harmed her. Had this occurred, the Officer would have been liable for his failure to intervene. He had allowed Mr. Thomas to leave the other individuals around him and to save face, as Mr. Thomas appeared to be motivated in part by the presence of his friends. He added that had he expected the victim to leave, he would have asked his partner to remain with the victim or requested another unit on the scene.

Mr. Walters commented that hearing Officer Wright's side of the story was confusing to him, as it was not consistent with how he felt a Police Officer should or should not act. He noted that Officer Wright had stated some of the details in the Internal Affairs report were "misleading statements." Officer Wright explained that these details would allow the reader to believe the incident occurred differently, or that certain actions were done intentionally.

Mr. Walters requested clarification of where the initial incident and the traffic stop of Mr. Thomas occurred. Officer Wright said the traffic stop occurred on the same block as the initial incident, "approximately 50 feet" from the building. He advised that while his report stated the incident and traffic stop occurred in the same location, it was not out of intent to be misleading, but because of the proximity of the two actions.

Mr. Walters recalled that Officer Wright had also taken exception to the statement that he had stood beside his car and failed to act. He asked what action Officer Wright had taken other than yelling at Mr. Thomas, noting that other witnesses had stated he did not approach the incident when it was in progress. Officer Wright said he had not advanced on the incident, but this did not mean he had taken no action.

Mr. Walters requested clarification of where Officer Wright was parked at the time of the incident. Officer Wright said he was standing beside his parked car; when he heard the incident, he turned to see what was going on. Mr. Walters asked what Officer Wright had said to his partner at this time, as the partner had stated he did not see or hear any activity. Officer Wright said his partner had not initially heard the incident, but had "caught the tail end of the argument." He added that the argument did not become loud until the victim screamed for Mr. Thomas to stop what he was doing.

Mr. Walters asked when Officer Wright felt a crime had been committed: before he left the victim's car, before leaving the scene, or upon being stopped. Officer Wright said he had expected the incident to stop when he addressed Mr. Thomas; when Mr. Thomas tried to strike the victim, the crime had occurred. Officer Wright said at this point he told Mr. Thomas to leave the property, and had decided to stop Mr. Thomas when he left rather than at the scene.

Mr. Walters asked what had constituted probable cause to stop Mr. Thomas's vehicle. Officer Wright said he knew a crime had been committed by a person who got into the vehicle.

Mr. Walters stated that there were details about the incident that concerned him. He noted that Officer Wright had referred to the victim as having "fled the scene," but Internal Affairs had felt this was inaccurate terminology, as the victim had not left in a rush. Mr. Walters continued that the Officer had asked all the individuals

in the car for identification, then asked Mr. Thomas to step out of the car. At that time, he stated he had not made a determination on whether or not he would arrest Mr. Thomas, as he did not know the magnitude of the crime; however, when Mr. Thomas described the previous incidents with the victim, Officer Wright had decided that he could not let Mr. Thomas go, as he might pursue the victim.

Mr. Walters asked if the car video had not functioned. Officer Wright confirmed this. He explained that the video had to go through a cycle when the car was started; it had not completed the cycle by the time he stopped the vehicle. He noted that he had tried to turn on the video while driving Mr. Thomas to the Police station, as Mr. Thomas had been making comments he felt should be recorded, but the video did not complete its cycle until the following day.

Mr. Walters observed that according to the report, Officer Wright had issued trespass warnings for Mr. Thomas from a business and the YMCA. Officer Wright explained that when the incident occurred with Mr. Thomas, Officer Wright's partner had advised the YMCA manager of what had happened. The manager had later spoken with Mr. Thomas personally, and had allowed him to return to the premises.

Mr. Walters asked what reason Officer Wright had given the driver for stopping the car. Officer Wright said he had advised the individual that he could have stopped him "for many reasons," including the vehicle's tinted windows.

Vice Chair Jordan asked if the Internal Affairs investigation could have been avoided if Officer Wright had gotten a statement from the victim at the time the incident occurred. Officer Wright said he felt an investigation would have occurred in any case, as Mr. Thomas had made strong allegations against him; however, in hindsight, he felt he would have been able to put together a better case if he had been able to locate or stop the victim immediately.

Mr. Walters noted that when Internal Affairs questions a witness, they allow time for the witness to add any other pertinent information to their statement. He asked why Officer Wright had not referred Internal Affairs to the other possible witnesses at the scene. Officer Wright said he was never asked if there were other witnesses he felt should be called, but had only been asked if there were any other details he would like to add to his statement.

Mr. Walters requested that the Board deal with the charges against Officer Wright separately rather than all together.

Vice Chair Jordan said there were some questions that appeared to be "left open," including the fact that other witnesses could have been called. Chair Stotsky explained that the Board has the opportunity to ask the City Manager to

investigate specific charges more thoroughly. Mr. Walters disagreed, however, stating that this was no longer an option for the Board.

Capt. Swisher said with regard to additional witnesses, Internal Affairs asks if an individual would like to add anything, such as a reference to contact potential witnesses. This is asked of witnesses, complainants, and charged Officers during the investigation.

Chair Stotsky read the charges and motions were made as follows:

Failure to conduct a complete or proper police investigation (sustained): **motion** made by Mr. Walters, seconded by Ms. Helfer, to recommend that the [finding of] sustained be upheld. In a voice vote, the **motion** passed 5-1 (Mr. Dickerman dissenting).

In Car Video Policy (not sustained): **motion** made by Mr. Walters, seconded by Mr. Dickerman, to concur with Internal Affairs. In a voice vote, the **motion** passed unanimously.

Use of vulgar, obscene or offensive language while acting in an official capacity (sustained): **motion** made by Vice Chair Jordan, seconded by Lt. Galt, that it is not upheld. In a show of hands, the **motion** passed 4-2 (Lt. Appel and Ms. Helfer dissenting).

Computer-Aided Dispatch System – Traffic Stops (not sustained): **motion** made by Mr. Dickerman, seconded by Ms. Helfer, to accept [the findings of Internal Affairs]. In a show of hands, the **motion** passed 4-2 (Vice Chair Jordan and Mr. Walters dissenting).

Neglecting to wear proper uniform while on duty (sustained): **motion** made by Lt. Appel, seconded by Ms. Helfer, to accept the sustained. In a voice vote, the **motion** passed unanimously.

For purposes of clarification, Chair Stotsky stated that the Board had not accepted the finding of sustained for Allegation 3; they had voted that this finding should not be sustained.

There being no further business to come before the Board at this time, the meeting was adjourned at 7:25 p.m.