

**CITIZENS POLICE REVIEW BOARD MEETING
 CITY OF FORT LAUDERDALE
 CITY HALL 8TH FLOOR CONFERENCE ROOM
 100 NORTH ANDREWS AVENUE
 FT. LAUDERDALE, FLORIDA 33301
 October 28, 2013 – 6:00 P.M.**

Board Members	Attendance	1/2013 – 12/2013 Cumulative Attendance	
		P	A
James Jordan, Chair	P	5	1
Marc Dickerman, Vice Chair	P	5	1
Ted Fling (left 7:37)	P	4	2
Lt. Steve Greenlaw	P	1	0
Det. Nina Justice	P	5	1
Sgt. Adam Solomon	P	3	0
Kenneth Staab (arr. 6:13)	P	5	1
Maxine Streeter	P	6	0
Roosevelt Walters	P	4	2

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

Staff

Sgt. Mike Dodson, Internal Affairs, Fort Lauderdale Police Department
 Sgt. David Cortes, Internal Affairs, Fort Lauderdale Police Department
 Capt. Rick Maglione, Office of the Chief, Fort Lauderdale Police Department
 Sgt. Jack Lokeinsky, President, Fraternal Order of Police
 Brigitte Chiappetta, Recording Secretary, Prototype, Inc.

Guests

Jayne M. Post
 Marian A. Post
 Janet Kelly
 Karen Bloemeke
 Larry Barszewski

Communications to the City Commission

None.

A. Roll Call

Chair Jordan called the meeting to order at 6:00 p.m. Roll was called and it was noted a quorum was present.

B. Approve minutes from August 12, 2013

Motion made by Vice Chair Dickerman, seconded by Mr. Walters, to approve [as corrected].

Sgt. Dodson noted the following correction on p.3: the sentence “The discipline recommended by Internal Affairs was a one-day suspension” should be changed to reflect that Internal Affairs does not make disciplinary recommendations.

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

C. General Information

Chair Jordan advised that he has requested not to be reappointed to the Board, and will attend his final meeting as Chair in November. This will mean the November Agenda will include the election of a new Chair.

He continued that City Manager Lee Feldman has sent the Board formal memoranda in recognition of their recommendations at the August meeting. The City Manager did not take exception with any of the Board’s recommendations.

Ms. Streeter reported that she had obtained a full history of the Ordinance that created the Board, including minutes and transcripts that reflected the Board’s evolution. It was determined that discussion of this issue would be placed on the November Agenda and members would be provided with copies of the history.

Mr. Walters recommended that the Board review the information compiled by Ms. Streeter before the November meeting, and then invite the City Attorney to attend a subsequent meeting. Chair Jordan agreed, stating that he had emailed the City Attorney to invite her to attend an upcoming meeting. The City Attorney had replied that she would like to attend a Board meeting in the future.

Mr. Staab arrived at 6:13 p.m.

D. Review the following Internal Affairs investigation:

Complainant:	Chief Frankin C. Adderley (IA Case 13-081)
Allegation:	1) Response to Resistance – Deadly Force
Officer:	Tiana DeGeorge
Disposition:	1) Exonerated

Motion made by Mr. Walters, seconded by Ms. Streeter, to accept the findings of Internal Affairs in Case 13-081.

Mr. Fling observed that Agenda Items D and E both use the term “exonerated.” Mr. Walters recalled that there were originally five categories the Board may assign when making a recommendation: Sustained, Not Sustained, Unfounded, Exonerated, and Deferred for further information. Due to changes made to the Board’s structure by the City Commission, the Board may now only Sustain, Not Sustain, or Defer the findings of Internal Affairs. They may not vote to exonerate.

Sgt. Dodson advised that the term “exonerated” refers to the finding of Internal Affairs, which the Board is asked to accept or not accept. He further clarified that Item E was placed on the Agenda by Internal Affairs to allow the family of the Complainant an opportunity to address the Board.

Ms. Streeter commented that Section 2-250 of a Municipal Ordinance dated July 13, 2010 states that the Board shall render one of the following advisory recommendations by vote: Sustained, Not Sustained, Exonerated, Unfounded, or Defer for more information. She asked if changes were made to this Ordinance after 2010, as she did not have a record of any such changes to the Board’s authority.

Chair Jordan explained that this was why the Board is seeking to meet with the City Manager and/or City Attorney to clarify its duties. He stated that in recent years, these decisions have been narrowed to only three options. Ms. Streeter pointed out that this change may only be made by Ordinance, and the Ordinance dated July 13, 2010 is the current Ordinance that applies to the Board.

Chair Jordan reiterated that Ms. Streeter had compiled information relating to the Ordinance, which would be provided to Board members for discussion at their November meeting. Once the Board has reviewed this information and determined how they wish to proceed, they will invite the City Attorney and City Manager to attend a later meeting to discuss the information.

Janet Kelly, private citizen of Naples, FL, asked what materials were provided to the Board by Internal Affairs to allow them to make an informed decision on the case. Ms. Streeter explained that the materials provided in relation to IA Case 13-081 include witness statements, an autopsy report, and thorough details of the investigation. She estimated that the materials amounted to more than 500 pages of documentation.

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

E. Kenneth Post Case Discussion (IA Case 11-141 presented August 12, 2013)

Chair Jordan recalled that this case was presented to the Board at their August meeting. Sgt. Dodson explained that this Item was placed on the Agenda to

correct a clerical oversight by Internal Affairs, which had listed the Chief of Police as the Complainant in IA Case 11-141 when the August Agenda was prepared. Due to this error, Mr. Post, who was the actual Complainant, did not receive notification of the meeting. Mr. Post's family has requested the opportunity to address the Board.

Chair Jordan stated that the Board's recommendations regarding this case have already been approved by the City Manager. This meant while the Board members may comment on the case, no vote will be taken.

Mr. Walters asked if public notice was posted for tonight's meeting. Sgt. Dodson replied that notice was sent to the Complainant. The Item has also been on the Agenda since it was first posted.

Detective Justice requested clarification that the Agenda included this Item when it was posted for public notice, per the requirements of the Sunshine Law. Sgt. Dodson advised that he had not actually been involved in the placement of this Item on the Agenda, so he could not personally speak to this issue. Chair Jordan produced a copy of the original Agenda that was sent to the Board members, pointing out that the Item was included on the document.

Ms. Kelly, private citizen of Naples, explained that the Complainant in Case IA 11-141 was Kenneth Post, who is her brother. She clarified that she was not acting as Mr. Post's representative at today's meeting, but as a concerned citizen, and her statements were her own.

She continued that the investigation into IA Case 11-141 was closed on July 1, 2013 by Internal Affairs. The case was then sent before the CPRB at their August 12, 2013 meeting for discussion. Ms. Kelly confirmed that her brother was not notified of this meeting although he was the Complainant. She stated that she spoke with Capt. MacDougal on October 7, 2013, to inform him that notice was not provided to Mr. Post. As a result, the case was placed on the October Agenda and notice was sent to Mr. Post.

Mr. Walters requested clarification of the requirements regarding public notice of meetings. Jayne Post, private citizen of Dania Beach, stated that the notice requirements for most public hearings mandate 10 days' notice and must be advertised in a local newspaper. She stated that she and others in Mr. Post's family did not have any information showing that this procedure was followed.

Ms. Post continued that the Board had made a decision on IA Case 11-141 before Mr. Post's family was notified. She felt that this meant the family's comments would have "no real authority." Chair Jordan clarified that the Board intended to hear the family's comments at tonight's meeting.

Vice Chair Dickerman advised that according to City Manager Lee Feldman, there is no standard time frame for notification of meetings, and 72 hours' notice is typically seen as sufficient unless an advisory body's by-laws specifically state otherwise. This would mean the seven days' notice provided for tonight's meeting was sufficient.

Ms. Kelly stated that Mr. Post's family took offense with the clerical error that resulted in a lack of notification, as Mr. Post was clearly identified as the Complainant in the documents she had received regarding the case. She confirmed that Mr. Post was notified of tonight's meeting.

Ms. Kelly continued that she has read the information provided to the Board regarding IA Case 11-141. She asserted that most of this information came from the trial of the three Officers cited in a criminal case, which was investigated by the State Attorney's Office. Internal Affairs interviewed the three Officers named in the case, as well as an additional Officer. The three Officers were acquitted in February 2013. The Internal Affairs investigation was concluded on July 1, 2013.

Ms. Kelly stated that she did not feel everything possible was done by Internal Affairs to investigate the case. She referred to the Internal Affairs section of the Fort Lauderdale Police Department's website, which states the Internal Affairs Unit investigates all allegations of unnecessary or excessive use of force, allegations of criminal misconduct, and allegations of false arrest. The website also states that Internal Affairs conducts a review of all uses of force, whether or not a complaint has been filed. Ms. Kelly asserted that Internal Affairs did not review the use of force or excessive force in Mr. Post's case, and requested that this review be conducted.

Ms. Kelly also referred to the City's fleeing vehicle policy, which states that an unmarked car shall not pursue suspects unless grave danger or a death has occurred. She pointed out that one Officer's testimony during the criminal trial, as well as his deposition, states that he saw an unmarked car follow Mr. Post's vehicle. Ms. Kelly said she would like this to be investigated further, along with an investigation into the possible violation of the fleeing vehicle policy.

Ms. Kelly asserted that there should also have been a pursuit review of the case, and she would like to know why no such review was conducted. She noted that a crash occurred at the end of the pursuit, and stated that it was her belief that Mr. Post's vehicle stopped on the street and was rear-ended by the unmarked car. She also pointed out that although the Officers state Mr. Post's vehicle struck them head-on, there is no evidence of frontal damage to the Complainant's vehicle, although there is damage to its rear passenger side. She asked if a crash review was conducted in this case.

Ms. Kelly concluded that she had not seen the following items in the reports provided to her:

- An invoice for damage to the vehicle, and authorization to repair it prior to a crash review;
- An excessive force review;
- An investigation into the pursuit.

Ms. Post added that she also felt Internal Affairs had not conducted a complete review, and that the materials provided to the Board should include all the information they need in order to make an informed decision. She felt the Board should be more diligent in requesting the information they need. Ms. Post concluded that the Officers involved in IA Case 11-141 "seem to be in a protected class."

Chair Jordan noted that Ms. Streeter had disclosed that she is acquainted with Mr. Post's family.

Mr. Walters commented that he would like a representative or representatives of Internal Affairs respond in this case, as allegations were made toward this Department.

Chair Jordan observed that the Board members would have to rely on memory to discuss the case, as they had received the materials related to IA Case 11-141 some time ago. Vice Chair Dickerman recalled that the materials related to this case were provided to the Board members three weeks in advance of their August meeting, due to the size of the file. This allowed them extra time to review the case. He stated that he did not feel it was appropriate for the Board to further engage on this matter, as they have already made their decision and do not have the case file before them in order to review specific items.

Chair Jordan advised that he felt Mr. Post's family should be allowed to offer their views on the case, although the Board cannot go back and alter its findings. Mr. Walters added that there is a process by which an individual who disagrees with the findings of Internal Affairs may address the issue, and suggested that Internal Affairs could advise Mr. Post's family of this process.

Ms. Kelly stated that she did not understand why the Board could not revisit its findings, as the correct protocol was for Internal Affairs to conduct an investigation and notify the Complainant before sending a case before the Board. As Mr. Post was not notified, this protocol was not followed. She said she would like to see action taken, such as a motion by the Board to defer its decision or to investigate the case further.

Ms. Kelly continued that while Mr. Post should be charged with the offense he committed, he should not face charges for actions he did not commit. She felt the

existing system is broken, and noted that complaints from her family to their attorney, to a judge, and to the Chief of Police have not resulted in any changes to the charges against Mr. Post. She concluded that the actions taken by the Police Officers against her brother should not have happened, asserting that these actions resulted in ongoing medical problems for Mr. Post. She did not feel that expressing these concerns before the Board was satisfactory if no further action or review occurred; furthermore, she felt there were not sufficient controls in place by the Police Department to prevent the behavior she had described in her brother's case.

Marian Post, private citizen of Fort Lauderdale, stated that she is Kenneth Post's mother. She felt the Board might have arrived at a different opinion of IA Case 11-141 if she and the other members of Mr. Post's family had received notice of the meeting and been present to speak. She asserted that this meant the Board was misinformed when they voted on the case.

Chair Jordan reiterated that the Board members did not have their information packets from IA Case 11-141 before them at present, which meant they cannot take another vote on the case at tonight's meeting. He added that the Board is currently limited in the actions it may take.

Mr. Walters explained that while the Board does not have the level of responsibility they once had, there are times when the members disagree with the findings of Internal Affairs and inform the City Manager of this disagreement. He advised that the Board was created in order to give greater confidence to the community regarding the actions of Police Officers. He also agreed that if a Complainant or his/her representatives are not present to give their side of a case, the Board does not have all the necessary information.

He continued that there is currently no process by which the Board can recall a case, according to the Ordinance that created it. The Ordinance can only be changed by the City Commission.

Karen Bloemeke, private citizen of Coral Springs, asked for more information on how the Ordinance can be changed so the Board may review a case. Mr. Walters said the best course of action would be for a member of Mr. Post's family to make this request. He recommended that they contact Internal Affairs to state that they disagreed with the investigation and the recommendation of the Board.

Mr. Walters reiterated that there is no way at present for the Board to recall a case upon which they have already voted. He recommended that this inability be part of any complaint Ms. Bloemeke or others might make to Internal Affairs, the City Manager, the City Attorney, or the City Commission. He concluded that he was saddened the Board could not revisit the case, but recommended again that

the family members reach out to the City Manager's Office in order to help ensure that this did not occur again in the future.

Ms. Kelly asked if the Board could move to recommend a more thorough investigation into IA Case 11-141 by Internal Affairs, as she did not believe that Department had conducted a complete review. She reiterated that the investigation was incomplete due to a lack of review, training, and follow-up.

Mr. Walters requested that a representative of Internal Affairs respond to the allegations made by Mr. Post's family. Sgt. Dodson stated that Internal Affairs stood by its investigation, which is presently closed, and would not reopen the case unless new or more compelling information is brought forward.

Chair Jordan concluded that he was sorry the Board could not provide further direction for Mr. Post's family at this time, and recommended that they pursue the issue with the City Manager. He noted again that the Board has limited powers.

Ms. Kelly observed that another case involving a complaint made by Mr. Post may come before the Board at a future meeting, in which case she would appear before the Board once more to share her side of the story. Chair Jordan explained that the Board did not hear cases until the Internal Affairs investigations are complete and any accompanying criminal investigations have been resolved.

Mr. Fling left the meeting at 7:37 p.m.

There being no further business to come before the Board at this time, the meeting was adjourned at 7:39 p.m.

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