



**CITY OF FORT MYERS
CITIZENS POLICE REVIEW BOARD
MAY 10, 2022
5:30 PM**

Oscar M. Corbin, Jr. City Hall
2200 Second Street
Fort Myers, Florida, 33901

*Michele Parker
Chair*

*Erma Boyd-Dorsey
Vice Chair*

Danielle L. O'Halloran

Forrest H. Banks

Robert Votaw, Jr.

Amanda L. Dennis

Nzingha Gaines

Steven Brown-Cestero

ACTION AGENDA

CALL TO ORDER 5:30 p.m.

PLEDGE OF ALLEGIANCE

ROLL CALL Absent: Danielle O'Halloran, Board Member

COUNCIL LIASION TO THE CITIZENS POLICE REVIEW BOARD, COUNCILMAN JOHNNY STREETS

Councilman Streets stated that the Jensen Hughes report was handed out at the last Citizens Police Review Board meeting. He explained that there is litigation in process and recommended the Board postpone discussion until matters are resolved. City Attorney Alley concurred with the comments provided by Councilman Streets and mentioned that the representatives from Jensen Hughes were available via Zoom to make a presentation to the Board regarding the study that was concluded on Case No. IA 2021-009.

Board Consensus: to move forward with the agenda without a presentation from Jensen Hughes.

PUBLIC INPUT (Three (3) minute time limit) (NONE)

OLD BUSINESS

1. Status update related to Case No. IA 2021-021 (Grant W. Alley, City Attorney)

City Attorney Alley stated that there is no update to provide at this time. He noted that this also relates to the litigation filed in Federal District Court.

MOTION: Remove Case No. IA 2021-021 from the monthly status update, under Old Business, and request City Attorney Alley provide an update as needed.

Approved.

NEW BUSINESS/PRESENTATIONS

2. Minutes and Board Report of the Citizens Police Review Board meeting held on April 12, 2022

Approved.

CONSENT AGENDA

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(Any Board Member may remove an Item from the Consent Agenda and place it on the Regular Agenda for discussion following the Consent Agenda)

3. **Case No.:** Prelim 2021-059
Investigator: Sergeant James Langton
Complainant: Benjamin Leroy Cummings
Officer: Officer Jimmy Hernandez
Policy Related to Complaint: Alleged Complaint: Harassment
Chief of Police Disposition: No Policy Violation
Discipline: None

Approved.

4. **Case No.:** Prelim 2021-068
Investigator: Lieutenant Lesa Breneman
Complainant: Janice Rouse
Officer: Detective Miguel Hernandez
Policy Related to Complaint: Alleged Complaint: Harassment/Physical Abuse
Chief of Police Disposition: No Policy Violation
Discipline: None

Approved.

5. **Case No.:** Prelim 2022-009
Investigator: Sergeant David Conticelli
Complainant: Charles Butler
Officer: None
Policy Related to Complaint: Alleged Complaint: Cybercrimes
Chief of Police Disposition: No Policy Violation
Discipline: None

Approved.

6. **Case No.:** Prelim 2022-018
Investigator: Sergeant David Conticelli
Complainant: David Lynom
Officer: Officer Myles Koch
Policy Related to Complaint: Alleged Complaint: Standard of Conduct
Chief of Police Disposition: No Policy Violation
Discipline: None

Approved.

7. **Case No.:** Prelim 2022-019
Investigator: Sergeant James Langton

Complainant: Evan Graves

Officer: Officer Martin Davila

Policy Related to Complaint: Alleged Complaint: Performance of Duty

Chief of Police Disposition: No Policy Violation

Discipline: None

Approved.

MANDATORY REVIEW BY BOARD

(* Indicates a full review is required or voted on under the City Ordinance Rules and Procedures for the Citizens Police Review Board)

8. **Case No.:** FD 2020-001

Investigator: Lieutenant Brian O'Reilly

Complainant: Chief Derrick Diggs

Officer: Marsy's Law invoked by Involved Officer

Policy Related to Complaint: General Order 6.1 Use of Force & Response to Resistance Section II (A) F.S.S. 776.05

Chief of Police Disposition: Within Policy

Discipline: None

Approved.

9. **Case No.:** Admin 2021-014 *Voted for Full Review on 2/8/2022

Investigator: Sergeant James Langton

Complainant: James Tisdall

Officer: Officer Myles Koch

i. **Policy Related to Complaint:** General Order 24.2 Unbiased Policing Section I (A) Biased Policing

Chief of Police Disposition: Unfounded

Discipline: None

ii. **Policy Related to Complaint:** General Order 9.1 General Rules of Conduct Section II (A) (9) Standard of Conduct

Chief of Police Disposition: Unfounded

Discipline: None

Approved.

10. **Case No.:** Admin 2021-018 *Voted for Full Review on 3/8/2022

Investigator: Captain Joshua Steinman

Complainant: Cindy Pledger

Officer: Officer Kelly Witt

i. **Policy Related to Complaint:** General Order 9.1 General Rules of Conduct Section II (A) (9) Standard of Conduct

Chief of Police Disposition: Not Sustained

Discipline: None

- ii. **Policy Related to Complaint:** General Order 9.1 General Rules of Conduct Section II (A) (5) Rules Governing Conduct

Chief of Police Disposition: Other

Discipline: Policy will be researched for potential change

- iii. **Policy Related to Complaint:** General Order 25.3 Mobile Video/Audio Recording Equipment Section IV (A) Body-Worn MVR Operating Procedures

Chief of Police Disposition: Sustained

Discipline: Policy Review

Complainant: Captain Joshua Steinman

Officer: Officer Tori Johnston

- i. **Policy Related to Complaint:** General Order 9.1 General Rules of Conduct Section II (A) (5) Rules Governing Conduct

Chief of Police Disposition: Other

Discipline: Policy deficit will be researched

Approved.

Motion carried: 7-0-1. *Board Member Dennis recused herself.*

- 11. **Case No.:** Admin 2021-019 *Voted for Full Review on 3/8/2022

Investigator: Lieutenant Dion Freeman

Complainant: Chelsea Newton

Officer: Officer Jimmy Hernandez

- i. **Policy Related to Complaint:** General Order 9.1 General Rules of Conduct Section II (21) Conduct Toward the Public

Chief of Police Disposition: Not Sustained

Discipline: None

Complainant: Lieutenant Dion Freeman

Officer: Officer Jimmy Hernandez

- i. **Policy Related to Complaint:** General Order 25.3 Mobile Video/Audio Recording Equipment Section IV (A) Body-Worn MVR Operating Procedures

Chief of Police Disposition: Sustained

Discipline: Counseling/Policy Review

Complainant: Lieutenant Dion Freeman

Officer: Officer Tyler Williams

- i. **Policy Related to Complaint:** General Order 25.3 Mobile Video/Audio Recording Equipment Section IV (A) Body-Worn MVR Operating Procedures

Chief of Police Disposition: Sustained

Discipline: Counseling/Policy Review

MOTION: Accept the Chief of Police Disposition involving Officer Jimmy Hernandez pertaining to General Order 9.1 General Rules of Conduct Section II (21) Conduct Toward the Public; and accept the Chief of Police Disposition involving Officer Tyler Williams pertaining to General Order

25.3 Mobile Video/Audio Recording Equipment Section IV (A) Body-Worn MVR Operating Procedure.

Approved.

MOTION: Reject the Chief of Police Disposition involving Officer Jimmy Hernandez pertaining to General Order 25.3 Mobile Video/Audio Recording Equipment Section IV (A) Body-Worn MVR Operating Procedures; and not accept counseling/policy review as the disciplinary action.

Motion failed: 2-5. *Board Member Gaines, Board Member Votaw, Board Member Banks, Board Member Dennis, and Chair Parker opposed.*

MOTION: Accept the Chief of Police Disposition involving Officer Jimmy Hernandez pertaining to General Order 25.3 Mobile Video/Audio Recording Equipment Section IV (A) Body-Worn MVR Operating Procedures.

Approved.

Motion carried: 7-1. *Board Member Brown opposed.*

12. **Case No.:** Admin 2021-023 **Voted for Full Review on 3/8/2022*

Investigator: Sergeant Dan Losapio

Complainant: Sergeant Dan Losapio

Officer: Officer Ryan Beiner

Policy Related to Complaint: General Order 25.3 Mobile Video/Audio Recording Equipment Section IV (A) Body-Worn MVR Operating Procedures

Chief of Police Disposition: Sustained

Discipline: Written Reprimand

Approved.

NON-MANDATORY REVIEW BY BOARD (NONE)

OTHER BUSINESS

Board Member Brown, Board Member Dennis, Vice Chair Boyd-Dorsey, and Board Member Gaines requested to receive the monthly Citizens Police Review Board agenda packet electronically.

MOTION: Request that FMPD provide a full sequential list for all cases to account for the missing case number gap, similar to the monthly log, with data that can be provided to Board. Lieutenant Breneman given discretion on the timeframe to provide, 2-3 years preferred.

Approved.

NEXT MEETING ANNOUNCEMENT – The next meeting will be held on June 14, 2022 at 5:30 p.m.

ADJOURNMENT 7:06 pm

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If a person decides to appeal any decision made by the City Council with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

Special Requirements: *If you require special aid or services as addressed in the Americans with Disabilities Act, please contact the City Clerk's Office at (239) 321-7035 or for the hearing impaired, TDD telephone number (239) 332-2541.*