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CITIZEN REVIEW BOARD

IN RE: THE MATTER OF JOHN BINNS

ROBERT CINTRON, ESQ.

LARRY BEAVER, Executive Director  
Citizen Review Board

ALSO PRESENT:  
Kristin Norman

STATEMENT OF: MICHAEL WIRKNER  
Thursday, April 13, 2017  
Beginning at 4:30 p.m.  
Recessed at 4:45 p.m.  
Cintron & Hogan  
317 Whitehead Street  
Key West, Florida 33040

Stenographically Reported By:

Lisa Roeser, RPR  
302 Southard Street, Suite 107  
Key West, Florida 33040  
305.294.0254  
lisarinkw@aol.com

1           MR. CINTRON: I am Robert Cintron and I want to thank  
2           you for taking time to come down here in this situation  
3           which I understand you are not real happy about it  
4           because your name has been in the newspaper and, you know,  
5           we apologize for that.

6           It's sometimes the unfortunate result of things that  
7           you have no control over, so your being here today will help  
8           the CRB conclude this case.

9           You're here voluntarily. You don't have to be here.  
10          If, at any time, you feel uncomfortable and you want to  
11          stop, you control this. Okay. So I don't want you to feel  
12          like this is a star chamber proceeding or that you have to  
13          participate. And I mean that very seriously because I want  
14          this to be an experience that you won't leave feeling poorly  
15          about the Citizens Review Board.

16          So after having said that, this court reporter is  
17          taking down everything that is said verbatim. Okay. And  
18          when we're concluded she is going to type it up and it will  
19          be presented to the Citizen Review Board members so that  
20          they can review it and have additional information about  
21          this pending case. Is it Wirkner?

22          A     Wirkner.

23          Q     Mr. Wirkner, what I want to do is walk through this  
24          night that this occurred from the beginning until the end so to  
25          speak.

1           So, if you would be kind enough I want to go back in  
2 time to the first point in time when you had any interaction  
3 with this fellow by the name of Binns. So tell me what you  
4 recall was the first time that you had any interaction with him.

5           A     Well, I was on a scooter and I pulled out onto Truman  
6 at Watson Street and he was in front of me going about ten miles  
7 an hour. He veered over to the right-hand side. I passed him.  
8 I thought he was going to turn into Dions or something. He  
9 pulled up to the light next to me at Truman and White and  
10 proceeded to call me faggot and say, "why did you pass me,  
11 faggot?"

12          Q     Okay. Stop right there because you started this at a  
13 good point. So you came off of Watson Street on your scooter.

14          A     Yes.

15          Q     Where were you coming from if you don't mind telling  
16 me?

17          A     From Unity Church.

18          Q     So you were coming from Unity Church. You drove onto  
19 Truman Avenue and I guess you would have turned right.

20          A     Right.

21          Q     Heading toward New Town.

22          A     Right.

23          Q     Okay. And when you got onto Truman was Mr. Binns in  
24 front of you on his scooter?

25          A     Yes. I had let him pass me before I turned.

1 Q And he was going slow?

2 A Yes.

3 Q Yes.

4 A Yes.

5 Q And then you passed him in the same lane?

6 A Yes.

7 Q Because it's a two-lane road?

8 A Yes.

9 Q Okay. You then get to the light at White Street and  
10 Truman, right?

11 A Yes.

12 Q And on the right it's a Dions and across the street  
13 it's a Chevron.

14 A Yes.

15 Q And you're facing toward New Town heading, I guess,  
16 that would be west, right?

17 A Yes.

18 Q Now, did anything happen between after you passed him  
19 and before you stopped at the light?

20 A No.

21 Q Okay.

22 A I didn't think anything of it.

23 Q So he wasn't screaming at you or chasing you at a high  
24 speed. No?

25 A No.

1 Q You have to speak verbally.

2 A No.

3 Q Okay. So you pull up. I guess the light was red.

4 Does he pull up beside you?

5 A Yes.

6 Q And he starts yelling at you?

7 A Yes.

8 Q And he, as best you can recall, what did he say?

9 A "What the fuck did you pass me for, faggot? Are you in  
10 a hurry, faggot?" He said faggot like three times.

11 Q Wow.

12 A And I says, "What is the problem? You can pass. We  
13 can pass. There is no big deal." And then he continued in that  
14 vein. The light turned green pretty quickly. I took off and  
15 went pretty fast trying to get away from him.

16 Q Did he threaten you at any point in time during that  
17 interaction?

18 A No.

19 Q Okay. But you were -- you had a fear?

20 A Yes.

21 Q So you took off heading down Truman, correct?

22 A Yes.

23 Q And he followed you?

24 A Yes.

25 Q Was he noticeably following you in the sense that you



1 could tell he was following you to where you were going?

2 A His scooter has less power than mine and I could tell  
3 he was revving it at its maximum speed to stay up with me.

4 Q Okay.

5 A I was not all that far ahead of him.

6 Q All right. And you could see that he was following  
7 you.

8 A Yes.

9 Q So what route did you take from the intersection of  
10 Truman and White to get home?

11 A I turned at George Street.

12 Q Okay. So you went past Bayview Park?

13 A Yes.

14 Q You went past the Duncan Auto?

15 A Yes.

16 Q Okay. And George Street is where the Miami Subs is,  
17 right?

18 A Exactly.

19 Q So you turned right on George where the Miami Subs is?

20 A Yes.

21 Q And was he still following you, Mr. Binns?

22 A Yes.

23 Q Was there any -- was he screaming at you or anything  
24 like that?

25 A No.

1           Q     All right. So then you ended up where, Catherine  
2 Street?

3           A     Yes.

4           Q     What is that address?

5           A     1725 Catherine.

6           Q     Is that where you live?

7           A     Yes.

8           Q     Okay. When you got home how far from you was Mr.  
9 Binns?

10          A     Right behind me. I pulled up in my usual spot against  
11 the fence. He pulled up right at my scooter.

12          Q     Okay.

13          A     And I got out on the far side to put my scooter between  
14 me and him and he started yelling at me again. I don't remember  
15 what he said.

16          Q     Okay.

17          A     And then he punched me in the face and after that it  
18 was fighting.

19          Q     Okay. You don't remember what you said --

20          A     I don't think I said anything.

21          Q     So you don't recall whether there was any kind of  
22 verbal jabbing going on when you stopped in front of your house?

23          A     I am pretty sure he was yelling stuff. I mean it was  
24 clear that this was a situation that was totally out of control  
25 and I didn't know what was going on.

1 Q Okay. So he struck you. He punched you in the face?

2 A Yes.

3 Q And did you reply in kind? Did you strike him?

4 A Yeah, I think I kicked -- I came around my scooter and  
5 kicked out at him. I have never been in a fight before ever but  
6 I did the best I could.

7 Q All right. So was it one blow and that was it?

8 A Oh, no. The fight went on for a long time.

9 Q Really.

10 A I was down on the ground. He was down on the ground.  
11 We were both on the ground. We were both back up. We were down  
12 again. I have pictures from what my face looked like  
13 afterwards. He was all right, but I am very skinny and easily  
14 cut.

15 Q Okay. How did the fight stop?

16 A He was on the ground and I stepped on his stomach and  
17 then I saw my keys on the ground. I scooped them up and went  
18 into my gate.

19 Q Okay. Is your gate locked?

20 A Yes, it's secure behind the gate.

21 Q And you went into the gate?

22 A Yes.

23 Q Did you call anyone?

24 A No.

25 Q Okay.



1           A     I just sat there and shook for quite some time and then  
2 I went back outside and I heard him on the phone to 911 which  
3 was astonishing to me and he was completely lying. He was  
4 saying that I started everything and I wrecked his scooter or I  
5 don't even know what he was saying, but I went back inside the  
6 house and I called -- I am not sure of the order here. I called  
7 Frank Blasberg.

8           Q     Who is he?

9           A     He is in the police department.

10          Q     Do you know Mr. Blasberg?

11          A     He is a friend of mine.

12          Q     He is a police officer. He is a friend of yours?

13          A     Yes, and then I called Todd Stevens another friend of  
14 mine.

15          Q     Is he a police officer?

16          A     Yes.

17          Q     What do you do for a living?

18          A     I clean houses.

19          Q     Okay. So it was after you heard Mr. Binns apparently  
20 making a 911 call that you first called Officer Blasberg and  
21 then you later called Officer Stevens?

22          A     Right. One of them I got a machine.

23          Q     Okay.

24          A     And the other one I didn't. I can't remember -- you  
25 have to understand I was shocked.

1 Q Do you recall which of the two officers you ended up  
2 speaking to?

3 A Todd.

4 Q Officer Stevens.

5 A Yes.

6 Q And do you remember the substance of that conversation?

7 A I told him what happened and that the guy was outside  
8 lying to 911 and he calmed me down. That took quite awhile and  
9 I looked outside again and the police were there.

10 Q Okay.

11 A And at that point he said -- Todd said go out and talk  
12 to the police because I didn't want to go out there with that  
13 guy there and he said go out and talk to the police. I'll stay  
14 on the phone with you.

15 Q Okay. Did Officer Stevens -- did he speak with any of  
16 the officers by phone to your knowledge?

17 A No.

18 Q No.

19 A No.

20 Q Okay. Did Officer Stevens indicate to you while you  
21 were on the phone with him that he would do what he could to  
22 intervene or assist or he anything like that?

23 A No.

24 Q So he was just basically helping you through this  
25 difficult time as a friend?

1           A     Yes.

2           Q     Correct?

3           A     Yes.

4           Q     All right. Did you see any off the interaction between  
5 Mr. Binns and Officer Rodriguez who was the investigating  
6 officer?

7           A     When I came out and Officer Rodriguez came up to me Mr.  
8 Binns approached us saying I don't know what. I don't know what  
9 he was saying. Just nonsense.

10          Q     Officer Rodriguez said would you go wait over there.  
11 There was another officer there at that point a little farther  
12 away.

13          A     Right. And he sent him back over there so Officer  
14 Rodriguez could talk to me.

15          Q     Okay.

16          A     And I just told him what happened. Very short and very  
17 plain and I mean I am still covered with blood. It was pretty  
18 apparent to everyone concerned that I was not the guy who  
19 started this fight.

20          Q     Okay. Did you end up having to go to get medical care  
21 either that evening or --

22          A     Yes. Officer Rodriguez strongly advised me to let him  
23 call the paramedics for me. I was reluctant but they came and I  
24 had a huge gash on my forehead which was blood everywhere and  
25 there was some question of whether I needed stitches or not.

1 The paramedics cleaned me up a bit and then advised that I  
2 should go to the hospital and make sure I didn't need stitches  
3 so there wouldn't be a scar. And I had a one of my roommates  
4 take me to the hospital.

5 Q So you did end up going to the hospital and did you  
6 have to have stitches?

7 A No.

8 Q I can tell you there is no scar.

9 A I am pretty happy about that. It took a while.

10 Q I don't want to put you on the spot and I don't want to  
11 imply anything by this question, but it's important for me to  
12 ask, okay, because Mr. Binns has indicated that he feels as if  
13 he was not treated fairly because you knew some police officers  
14 and the implication being that somehow they interceded on your  
15 behalf to his disadvantage. And that is why I was asking you  
16 about these phone calls and, you know, I don't want you to  
17 assume by my questions that I agree with that. I just need to  
18 ask. Okay.

19 So please don't be offended by those questions. So I  
20 want to go through this one more time with you as it relates to  
21 Officer Stevens and Officer Blasberg. Is he an officer or  
22 detective, Blasberg or you don't know?

23 A I don't know.

24 Q You're sure that you only spoke with one of the two  
25 officers that you called, correct? You called Blasberg and you



1 called Stevens, correct?

2 A Right.

3 Q And you got, I guess you got Blasberg's answering --

4 A I believe so.

5 Q But you don't believe that you spoke with Blasberg?

6 A No. I think I just left a message on the machine.

7 Q Did he call back at some point in time; he being  
8 Blasberg?

9 A It seems like I did speak to him. He may have called  
10 afterwards and I told him what happened. I think that is right  
11 but I didn't talk to him for very long at all.

12 Q Would that have been that same night?

13 A Yes. Perhaps after I had come back inside.

14 Q Okay.

15 A Maybe before. I am unsure of the time line.

16 Q So you think you did speak with Blasberg eventually?

17 A Yeah, he called me back. Otherwise I would be mad. He  
18 did call me back.

19 Q And then you know you spoke with Officer Stevens?

20 A Yes.

21 Q And when Officer Stevens recommended that you go  
22 outside when the police arrived outside did you terminate your  
23 call with Officer Stevens or did you leave him on the line?

24 A I left him on the line.

25 Q Okay. Did he, Officer Stevens communicate with Officer



1     Rodriguez on the phone to any extent?

2           A     No.

3           Q     So Officer Stevens -- was he listening in on the  
4     interaction between you --

5           A     Yes.

6           Q     Okay. And was he on the phone the entire time while  
7     you are talking to Officer Rodriguez, he being Officer Stevens?

8           A     Yes.

9           Q     Okay. What was your reason for doing that? Why did  
10    you feel the need to keep him on the phone?

11          A     I did not want to go outside at all and deal with any  
12    of it.

13          Q     All right. But explain to me if you have an  
14    explanation why you thought it would be helpful to keep Officer  
15    Stevens on the phone while you are going out to talk to --

16          A     That was his way of him getting me to actually go out  
17    there. He was trying to get me out there.

18          Q     So he was giving you some comfort by staying on the  
19    line?

20          A     Yes.

21          Q     Okay. And he was able, he Officer Stevens was he at  
22    least able to hear your side of the conversation with Officer  
23    Rodriguez but he never got on the phone and spoke with Officer  
24    Rodriguez?

25          A     No.

1 Q When you were finished with you interaction with  
2 Officer Rodriguez you went back into your home.

3 A Yes.

4 Q Okay. And was Officer Stevens still on the phone?

5 A For a short period. He said call me back later if you  
6 need me.

7 Q Okay. To your knowledge did Officer Stevens ever reach  
8 out to Officer Rodriguez or any of the other officers who  
9 arrived that evening to discuss the case?

10 A No.

11 Q So you never heard that they did that or you don't know  
12 that they did?

13 A No.

14 Q Okay. Let's stop for just a second.

15 (Brief pause.)

16 BY MR. CINTRON:

17 Q From what you observed how would you describe Officer  
18 Rodriguez's interaction with Mr. Binns during the time that you  
19 were present and they were interacting?

20 A Perfectly professional and neutral.

21 Q Okay. Did you observe any aggressiveness or behavior  
22 on behalf of Mr. Binns towards Officer Rodriguez?

23 A He was belligerent.

24 Q Okay. He being?

25 A Binns.

1           Q     Binns. Okay. Anything else? Okay. This will  
2 conclude the statement and I appreciate your coming down and I  
3 have to tell you that this statement is going to be given to the  
4 other board members, so it will be public to that extent and I  
5 know the last thing you want is your name in the paper anymore  
6 and we'll do what we can to prevent that, but we can't control  
7 it. Okay.

8                     And I just realized that I don't think we put him under  
9 oath.

10                                     MICHAEL WIRKNER

11 Do you swear that the testimony you are about to give and the  
12 testimony you have given thus far has been the truth, the whole  
13 truth and nothing but the truth.

14                     THE WITNESS: I do.

15           Q     Is there anything you want to add to this? I should  
16 have given you that opportunity. I want to give you an  
17 opportunity, if there is anything you want to say to the  
18 Citizens Review Board about this incident. That way you get to  
19 share your view of anything that relates to this matter so that  
20 you feel like you have had your opportunity to say your piece so  
21 your welcome to --

22           A     Just that Officer Rodriguez was perfectly professional  
23 throughout the entire thing. And including what I saw of his  
24 interaction with Mr. Binns and there is absolutely no reason for  
25 this.

1           Q     Okay. All right. Well, listen I appreciate you coming  
2 down. This has been helpful. I promise you it wasn't a waste  
3 of time, okay? Because one of the things we insist on at the  
4 Citizens Review Board is that when someone files a complaint  
5 that it gets thoroughly investigated so that we can make sure  
6 whatever decision is made is made based upon all of the  
7 information available. So because you were involved in this,  
8 it's necessary to get your input and I am sorry that you had to  
9 be put through this, but it's been very helpful and it was not a  
10 waste of time.

11          A     I hope so.

12          Q     So enjoy the rest of your evening. Enjoy your Easter.  
13 Thank you for coming, ma'am, and I hope that you don't have any  
14 more problems like this.

15          A     Let's hope so.

16                (Statement was concluded.)

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## 1 CERTIFICATE OF REPORTER

2  
3 STATE OF FLORIDA4 COUNTY OF MONROE  
5

6 I, Lisa M. Roeser, Registered Professional Reporter,  
7 certify that I was authorized to and did stenographically report  
8 the statement of MICHAEL WIRKNER, pages 1 through 17; that a  
9 review of the transcript was not requested; and that the  
10 transcript is a true record of my stenographic notes.

11 I further certify that I am not a relative, employee,  
12 attorney, or counsel of any of the parties, nor am I a relative  
13 or employee of any of the parties' attorneys or counsel  
14 connected with the action, nor am I financially interested in  
15 the action.

16 Dated this 17th day of April, 2017.

17  
18 Lisa Roeser, RPR  
Registered Professional Reporter  
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