



**ATLANTA CITIZEN REVIEW BOARD
MINUTES OF THE MEETING**

December 8, 2016
Tower, 3rd Floor Auditorium
55 Trinity Avenue, S.W.
Atlanta, Georgia 30303

The December 2016 meeting was called to order by *Chair Williams* at 6:05 p.m. *Chair Williams* welcome ACRB's newest member, Shuntay Pitre, Urban League of Greater Atlanta.

AGENDA

ROLL CALL

(The ACRB has thirteen members)

ACTIVE MEMBERS PRESENT

SHERRY WILLIAMS <i>(Chair/Williams)</i>	CECILIA HOUSTON-TORRENCE <i>(Torrence)</i>
PAUL BARTELS <i>((Secretary/Bartels)</i>	WILLIAM HARRISON <i>(Harrison)</i>
BILL BOZARTH <i>(Bozarth)</i>	GINO BROGDON <i>(Brogdon)</i>
GERALD SOUDER <i>(Vice Chair/Souder)</i>	HAROLD HARDNETT <i>(Hardnett)</i>
TRACEE MCDANIEL <i>(McDaniel)</i>	SHUNTAY PITRE <i>(Pitre)</i>

ACTIVE MEMBERS ABSENT

None

VACANT BOARD SEATS

APAB-NPU, Group S – Z *(1 year and 7 months)*
City Council President *(6 months)*
Coalition for the Peoples' Agenda *(8 months)*

STAFF & CITY EMPLOYEES ATTENDEES

SAMUEL LEE REID, Executive Director*(Reid)*; **SHEENA ROBERTSON**, Investigation Manager *(Investigator Robertson)*; **ROBIN LOLAR**, Investigator, Sr., *(Investigator Lolar)*; **BRIAN FLEMING**, Investigator, Sr., *(Investigator Fleming)*; **MYOLA SMITH**, Project Manager *(Smith/Transcriber)*; **LYNN GARRETT**, Executive Assistant *(Garrett/Transcriber)*; **MELISA REESE**, Administrative Assistant *(Reese)*; **VIRGINIA ROBINSON**, COA Law Department, *(Robinson)*; **LIEUTENANT JESSE WEBB**, Atlanta Police Department, *(Lt. Webb)*.

APPROVAL OF MINUTES OF THE LAST MEETING, NOVEMBER, 2016

Chair Williams opened the floor for discussion and corrections to the November 2016 minutes. No corrections were noted.

Bartels moved to adopt the minutes. *Bozarth* seconded. Hearing no discussion, the motion was approved.

EXECUTIVE DIRECTOR'S REPORT

The Board received a copy of the ED's report in advance of the meeting. The following highlights were reported on by *Director Reid*:

- **Welcome New Board Member – Shuntay Pitre**

The ACRB welcomed its newest member, Urban League Appointee, Ms. Shuntay Pitre, to the Board. Thursday will be her first meeting.

- **Anonymous Complaints**

As you know, the authority to accept anonymous complaints was granted in March 2016. The ACRB recently began a “Nobody Needs to Know” campaign designed to inform the public of our authority to receive anonymous complaints. Actress Jasmine Guy recently provided her celebrity to assist us with our effort to build community's awareness of the new offering. Please view Ms. Guy's video on the ACRB's Facebook page.

- **APD Body Worn Camera Training (Mandatory Training)**

The ACRB is invited to observe and participate in the APD Body Worn Camera Training during the week of January 9 – 13. The sessions will begin at 8 a.m. and 1 p.m. each day. The sessions are three hours. The training will be held at the APD Training Academy, located at 180 Southside Industrial Parkway, Atlanta, Georgia 30315

In order for the APD to make allowances for space, members were asked to notify the Director of the date and time that they planned to attend the training. This training is mandatory and any issues related to the training dates and times should be made known as soon as possible.

- **Posting Review Cases on Website (formerly Emailing Documents)**

As you will recall, we have been working to provide the cases to the board by placing them on a secured section of the website. Unfortunately, our webmaster had been out of the country and is currently battling an illness. He hopes to resume working on our website issues within the next few weeks.

- **COVAP Training**

We held our second COVAP group training on November 19. The third meeting is this Saturday, December 10. COVAP is a volunteer group that we started to leverage the time, talents, and resources of community members who are interested in moving the ACRB mission and message of police accountability forward.

- **Community Outreach**

In November, *Director Reid* attended several events marking the 10th Anniversary of Ms. Kathryn Johnston's fatal shooting by Atlanta police officers. On Sunday, November 20, *Reid* attended the annual Lindsay Street Baptist Church's celebration of Ms. Kathryn Johnston Day. *Reid* encouraged all board members to try to attend next year.

On Monday, November 21, Board members *Bill Bozarth*, *Bill Harrison*, and *Reid* attended a forum on policing and youth at Lindsay Street Baptist Church. Georgia Senator Vincent Fort convened and

facilitated the meeting. The forum was very informative. Three representatives of the different protest organizations provided various degrees of insight into the formation of the current protest movement, and how the movement operates. While the focus of many of the protest has been the police killings of black men, the movement includes and supports equity, homelessness, education, and equality.

- **Chief Turner Retiring**

Atlanta Police Chief George Turner and Assistant Chief Shawn Jones are retiring from the APD, effective December 28. Deputy Chief Erica Shields will be the new Chief, effective December 29.

- **Chief Erica Shields' Board Visit**

Chief Erica Shields (*effective December 29, 2016*) has advised that she will attend the January 9, 2017 board meeting. She looks forward to meeting with the board.

- **Board Training**

Board training will begin during the January board meeting. The first training will be on the ordinance and by-laws. The City Attorney's office will provide the training.

- **BWC Training**

Please remember to email the dates and times of your availability for the Atlanta Police Department Body Worn Camera training.

- **Tracee McDaniel selected as Co-Chair of the Transgender Day of Remembrance**

Board member Tracee McDaniel recently Co-Chaired the Transgender Day of Remembrance honoring the lives of transgender people murdered all over the world in 2016. Congratulations and thank you Tracee for your work.

- **Reports to Appointing Entities**

Members are reminded to provide the office with a copy of the reports that are submitted to the appointing entities. The office is maintaining a record of the reports. As have been discussed on several occasions, it is important that the appointing entities receive regular communication from members. The report enables the appointing entity to remain engaged with the board's work, which should make it easier for them to find a replacement when the current member time's on the board expires.

Attached is an example of a report. Members are encouraged to tailor the report to their liking. Also, the report can be emailed or an oral report. Members reporting orally are asked to provide a summary of the oral report. If the appointing entity has a format for reporting, please use that format.

- **APD Ride Along**

Reminder: Per ACRB Ord. Sec 2-2207 (c) - "All board members shall participate in an Atlanta Police Department ride-a-long within one year of their appointments to the board."

Members, who have not completed a ride along, are urged to find a time convenient for them to participate. Ride Alongs are provided in any zone, at any time. Typically, an eight hour block of time is required. Attached is a ride along form.

- **Stipend Payments**

The City requires that all board members complete a W-9 in order to be paid a stipend. Please fill out the form and return it to the office.

Discussion and Comments...

1. *(Williams) Do you have the date for the police academy?*
2. *(Reid) No.*
3. *(Williams) Is it safe to say that it probably will not start until February?*

4. *(Reid) Right, and to follow up on that, I did contact Sergeant Claxton. I have not heard anything from her yet...about the participation of the APD Millennial Citizens Academy.*
5. *(Bozarth) Do we have clarification as to where the APD is with the roll-out of the Body Worn Cameras in the various zones?*
6. *(Reid) The training that you will be going to in January is going to be zones 1 & 6. After they roll out these zones, then they will go to the next zones but they have not said which ones.*
7. *(Bozarth) Deputy Chief Spillane laid out a schedule for this year. That did not happen? Is that correct?*
8. *(Reid) Honestly, I think that it has happened. I think that they failed to let us know about the training in Zone 4. When we followed up with them, then they told us about Zones 1 & 6.*
9. *(Bozarth) So as far as you know, the schedule is closer to what he told us... a couple of months ago?*
10. *(Reid) I guess so...I don't know. We will have to find out.*
11. *(Bozarth) You want us to put on our calendar to be here early for the training in January? Be here at 5:30 p.m. instead of 6:30p.m.*
12. *(Reid) Yes. We are trying to start the training modules in January and that will start with the City Attorney's Office and then it will be followed up in February with either the Open Records and or Ethics followed by other things that we need to look at. While I am thinking about February...that is the time when we have the board officer elections, so we might need to think about if we want to have training that month, but not doing the board meeting. Certainly, however, we can have it outside of the board meeting.*
13. *(Williams) Anyone have any ideas? Do we want to come in early verses adding an additional day or evening?*
14. *(Bartels) I think that it would probably be more likely to draw more people if they can come early. Depending on how many complaints that needs to be heard, maybe we can have a light day with that one. Maybe, two complaints, the election then the training; if we can do that the same day.*
15. *(Reid) We might be able to work that out. What I do know is that, as we get more complaints, we are going to start having longer meetings; more things to get done. The meeting in February, we will try and work things out.*
16. *(Bartels) I know that the last couple of meetings we have had six cases.*
17. *(Bozarth) The purpose of our compensation is to get paid for training...I would guess if the training is a longer meeting that would not apply. Is that the policy to your understanding?*
18. *(Reid) Correct.*
19. *(Bozarth) What about ride alongs? Is that considered training?*
20. *(Reid) Yes. If you do a ride along, make sure we know about it so that we can process it.*
21. *(Williams) How far back? I didn't know that ride alongs were considered training?*
22. *(Reid) Back to March 30 2016 when the legislation was passed.*
23. *(Williams) I thought that we just had to do it.*
24. *(Reid) You can do another one and will get paid for it.*
25. *(Reid) You can ride along in whichever zone you want to. The ride along is to get the exposure...officers doing their work. Some people want to ride along where some action is; some would rather not be exposed to things.*
26. *(Williams) How many people have gone on a ride along? Would you say that it was definitely worth your time?*
27. *(Reid) Definitely. We encourage everyone. In fact, it is a requirement in the ordinance.*
28. *(Houston-) If you're done one in the past, does that count?*
29. *(Reid) No. We need you to do it while you are on the board.*

INTAKE REPORT FOR NOVEMBER 2016

Investigation Manager **Robertson** reported that for the month of November 2016, the ACRB received seventeen (17) complaints.

A. COMPLAINT BREAKDOWN AND STAFF RECOMMENDATIONS:

The ACRB staff is seeking approval to possibly dismiss six (6) of the 17 complaints. All six complaints are waiting for signed complaints. It should be noted that the proper referrals were given to those citizens whose complaints fell outside of ACRB's jurisdiction.

The following is a list of the complaints that are being recommended for dismissal and the reason for the recommendation:

1. ACRB Case No. 16-157 – Abuse of Authority
The Complainant alleges that the APD officer that issued her a traffic citation on August 3, 2016 and provided her with the wrong information on the ticket, and as a result she missed her court appearance and her license was suspended. Preliminary investigation revealed that the subject officer is employed with Georgia Department of Public Safety. *Recommend dismissal for lack of jurisdiction.*
2. ACRB Case No. 16-159 – Excessive Force
The Complainant alleges that an officer with the Elberton County Sheriff's Department pulled a gun on him. *Recommend dismissal for lack of jurisdiction.*
3. ACRB Case No. 16-163 – Legal Malpractice
The Complainant contacted the ACRB office to file a malpractice complaint against the defense attorney and judge pertaining to his arrest that occurred on January 14, 2015 in Cobb County. *Recommend dismissal for lack of jurisdiction.*
4. ACRB Case No. 16-166 – Inadequate Service
Complainant alleges that on May 1, 2016, the APD officer that stopped and cited her son for being at fault in a car accident failed to complete an incident report in a timely manner. *Recommend dismissal because incident occurred outside the 180 days and is time barred.*
5. ACRB Case No. 16-167 – Inadequate Service
On November 18, 2016, the ACRB received a letter from the Complainant pertaining to his treatment at the Augusta State Medical Prison. *Recommend dismissal for lack of jurisdiction.*
6. ACRB Case No. 16-170 – Excessive Force
The Complainant called the ACRB office to file an excessive force complaint against the correction officers at a Georgia Federal Prison. *Recommend dismissal for lack of jurisdiction.*

Investigation recommendations:

The following Five (11) cases are recommended for investigation:

1. ACRB Case No. 16-155 – Unlawfully Detained, Illegal Search & False Arrest
The Complainant alleges that on July 10, 2016, he was unlawfully detained, searched and arrested by APD officers.

Recommend investigation as a false imprisonment, appropriate action required and possibly a false arrest complaint. However, preliminary investigation revealed that the Complainant's criminal case stemming from this incident is pending adjudication in the Fulton County State Court and the investigation into the false arrest allegation will depend on its outcome.
Therefore, recommend suspension of the investigation pending the resolution of his case.
2. ACRB Case No. 16-156 – False Arrest
The Complainant alleges that on November 7, 2016, he was falsely arrested by an APD officer.

Preliminary investigation revealed that the Complainant's criminal case stemming from this incident is pending adjudication in the Atlanta Municipal Court and the investigation into the false arrest allegation will depend on its outcome. **Therefore, recommend suspension of the investigation pending the resolution of his case.**
3. ACRB Case No. 16-158 – Excessive Force & Inappropriate Conduct

The Complainant alleges that during her arrest on October 13, 2016, an APD officer threw her on the ground. She further alleges that the officer threw her shoes in the trash.

Awaiting Complainant's signed complaint. If the signed complaint is received within next few weeks, then recommend investigation as an excessive force and appropriate action required complaint. **If signed complaint is not received, then recommend dismissal.**

4. ACRB Case No. 16-160 – Unlawfully Detained

The Complainant alleges that on October 24, 2016, she was unlawfully stopped and cited for failing to signal.

Awaiting the Complainant's signed complaint. If the signed complaint is received within the next few weeks, then recommend investigation as a false imprisonment complaint. **If signed complaint is not received, then recommend dismissal.**

5. ACRB Case No. 16-161 – Inappropriate Conduct

The Complainant alleges that during his arrest on October 13, 2016, APD officers took photos of him with their cell phones and allowed an unknown male to verbally insult him.

Recommend investigation as a conduct and appropriate action required complaint.

6. ACRB Case No. 16-162 – False Arrest

The Complainant alleges that he was falsely arrested by APD officers on November 9, 2016.

Preliminary investigation revealed that the Complainant's criminal case stemming from this incident is pending adjudication in the Atlanta Municipal Court and the investigation into the false arrest allegation will depend on its outcome. **Therefore, recommend suspension of the investigation pending the resolution of his case.**

7. ACRB Case No. 16-164 – False Arrest & Inadequate Service

The Complainant alleges that on August 8, 2016 she was falsely arrested by an APD officer (her case was dismissed). She further alleges that the officer failed to explain to her that if she did not sign the citation, she would be arrested.

Recommend investigation as a false arrest and appropriate action required complaint.

8. ACRB Case No. 16-165 – False Imprisonment & Falsifying Report

The Complainant alleges that on June 9, 2016, he was unlawfully stopped and cited for an expired tag by an APD officer that was not in his jurisdiction. He further alleges that the officer lied about the location of where he was pulled over.

Recommend investigation as a false imprisonment complaint and appropriate action required complaint.

9. ACRB Case No. 16-168 – Inadequate Service

The Complainant alleges that on November 20, 2016, APD officers acted inappropriately when they allowed a former tenant to enter this residence and removed some of his belongings.

Recommend investigation as an appropriate action required complaint.

10. ACRB Case No. 16-169 – Inappropriate Behavior

The Complainant alleges that on November 23, 2016, while driving on Martin Luther King Jr. Drive, a marked APD patrol car changed lanes without signaling and cut her off, causing her to nearly strike the vehicle.

Awaiting the Complainant's signed complaint. If the signed complaint is received within the next few weeks, then recommend investigation as a conduct complaint. **If signed complaint is not received, then recommend dismissal.**

11. ACRB Case No. 16-171 – Inadequate Service

The Complainant, who does not want to reveal her identity, alleges that on November 28, 2016, an APD officer at the Hartsfield-Jackson International Airport spoke to her in a rude and unprofessional manner. **Recommend investigation as a conduct complaint.**

RECONSIDERATION OF COMPLAINT

1. ACRB Case No. 16-069 – False Imprisonment
In May 2016, the Complainant filed a false imprisonment complaint against an APD officer pertaining to an incident that occurred on May 2, 2016. ACRB's numerous attempts to obtain a statement from Mr. Washington have been unsuccessful. **Therefore, recommend for dismissal for lack of cooperation.**
2. ACRB Case No. 16-113 – Excessive Force, False Imprisonment & Appropriate Action Require
In August 2016, The Complainant filed an excessive force, false imprisonment and appropriate action required complaint against an APD officer pertaining to an incident that occurred on August 18, 2016. **Therefore, recommend for dismissal for lack of cooperation.**
3. ACRB Case No. 16-126 – False Arrest
In September 2016, The Complainant had filed a false arrest complaint against an APD officer pertaining to an incident that occurred on August 26, 2016. ACRB's numerous attempts to obtain a statement from Ms. Ware have been unsuccessful. **Therefore, recommend for dismissal for lack of cooperation.**
4. ACRB Case No. 128 – False Imprisonment & Abusive Language
In September 2016, The Complainant filed a false imprisonment and abusive language complaint against an APD officer pertaining to an incident that occurred on August 6, 2016 involving her two minor sons. ACRB numerous attempts to obtain a statement from the Complainant have been unsuccessful. **Therefore, recommend for dismissal for lack of cooperation.**
5. ACRB Case No. 143 – Harassment Complaint
In September 2016, The Complainant filed a harassment complaint against an APD officer pertaining to an incident that occurred on September 28, 2016. ACRB's numerous attempts to obtain a statement from the Complainant have been unsuccessful. **Therefore, recommend for dismissal for lack of cooperation.**

B. BOARD VOTES ON INTAKE REPORT

Bozarth moved to accept the Intake Report for November. *Houston-Torrence* seconded. Hearing no further discussion, the motion was approved.

COMPLAINTS REVIEW:

ACRB CASE NO 16-013, LEONARD KOSINSKI

A. ALLEGATION SUMMARY

The Complainant alleged that on December 3, 2015, while at 1020 Lindberg Drive, APD Officer James Burns used excessive force against him when they: (1) struck him on the back of the head, (2) slammed his face against the ground, (3) pepper sprayed him, and (4) repeatedly hit his head against the ground without provocation.

The Complainant further alleged that other unidentified APD officers that arrived on the scene also used excessive force against him when they: (1) struck him on the back of the head, (2) slammed his face against the ground, (3) pepper sprayed him, and (4) repeatedly hit his head against the ground without provocation.

B. STAFF RECOMMENDATION

The ACRB staff recommends that the allegation of **Excessive Force** against Officer James Burns be assigned a finding of **not sustained** (*the investigation failed to prove or disprove the alleged act(s) occurred*).

The ACRB staff recommends that the allegation of **Excessive Force** against Officers Terrence Abner, Elijah McCall, Brian Polke, Larry Bacon and Christopher Dickerson be assigned a finding of **not sustained** (*the investigation failed to prove or disprove the alleged act(s) occurred*).

The ACRB staff recommends that the allegation of **Excessive Force** against Officer Steven Shultz be a finding of **unfounded** (*the investigation established that the Officer did not commit the alleged acts of misconduct*).

Discussion and Comments...

1. **(Bozarth)** *My opinion upon reading the report, there is simply no proof from the medical point of view that the officer did some of the things consider excessive. Had he done everything that the complainant brought forward, there would have been much more indication of injury. We have pictures that do show that he does have a spot on his cheek, but that was contributed to the use of pepper spray. I would also comment that Mr. Kosinski was hard to handle and I believe that the officer probably was trying his best to use the appropriate force and since there is no evidence to go beyond that... I would agree with staff's recommendation to not sustain.*
2. **(Houston-Torrence)** *I agree with what Bill (Bozarth) said. He also admitted that he was high on alcohol...I believe that they said that cocaine was found on the scene...*
3. **(Bartels)** *I did agree with staff's findings or advisement. Based on the report, there was...at least reasonable suspicion to detain somebody to continue the investigation.*
4. **(Bozarth)** *One of the other facts...it may have not been obvious when reading, but James Burns was the same officer that was dismissed from the force in July; one who is being charged with the homicide in the parking lot. If everybody remembers that case. He is no longer with the force; certainly he is facing more consequences as a result of that. I think that it is unnecessary for us to file a report; especially, since we cannot find real evidence that excessive force was used.*

C. BOARD VOTE ON 1st ALLEGATION FOR EXCESSIVE FORCE - OFFICER BURNS

Brogdon moved to adopt staff's recommendation to assign a finding of **not sustain** for Excessive Force against Officer James Burns. **Bartels** seconded. Hearing no further discussion, the motion was approved.

D. BOARD VOTE ON 2nd ALLEGATION FOR EXCESSIVE FORCE – OFFICERS ABNER, MCCALL, POLKE, BACON AND DICKSON

Houston-Torrence moved to adopt staff's recommendation to assign a finding of **not sustain** for Excessive Force against Officers Abner, McCall, Polke, Bacon and Dickson. **Hardnett** seconded. Hearing no further discussion, the motion was approved.

E. BOARD VOTE ON ALLEGATION OF EXCESSIVE FORCE – OFFICER SHULTZ

Bartels moved to adopt staff's recommendation to assign a finding of **unfounded** for Excessive Force against Officer Shultz. **Houston-Torrence** seconded.

ACRB CASE NO 16-043, SIR MAEJOR PAGE

A. ALLEGATION SUMMARY

The Complainant alleges that on September 2015, APD Melissa Nowak harassed him by telling business owners he was “crazy” and a “cop impersonator.” The Complainant further alleged that Officer Nowak told an unidentified officer that he was a mentally ill person.

B. STAFF RECOMMENDATION

ACRB staff recommends that the allegation of Harassment against Officer Nowak be assigned a finding of **Not Sustained** (*the allegation failed to prove or disprove that the alleged act(s) occurred*).

Discussion and Comments...

1. **(Houston-Torrence)** *If he could have produced the names of the business owners...since he could not produce any names. I move that we accept staff's recommendation to not sustain.*
2. **(Bozarth)** *I agree that we should not sustain the complaint. This seems to be a case where this individual; maybe, even tempting the officer. I tend not to be sympathetic to a complainant who tries to deliberately engage the police. We had a case where a man at the airport with an AR 15(Automatic Rifle). We exonerated those officers. Rather than what Brian (Fleming) suggested to not sustain the complaint, when we get to the motion, I would think that we would want to exonerate this particular officer. I don't see where she did anything that would raise the suspicion.*
3. **(Bartels)** *I would agree with recommendation to not sustain. Correct me if I am wrong, I think that exonerated means that the claimed act actually did occur, but was justified. Where unfounded would mean that the evidence is clearly establish...the act did not happen. The complainant was not able or did not turn in any names of any witnesses to corroborate his accounts. My inclination is to go with staff's recommendation on not sustained.*
4. **(Brogdon)** *I agree. There is a public record that he has been impersonating an officer. It has been on the news. I think that this is somebody who is testing the officer patience to try and get some kind of reaction... I agree with staff's recommendation.*

Chair Williams opened the floor for a motion. **Houston-Torrence** moved to accept staff's recommendation to assign a finding of **not sustained** for **Harassment** allegation against Officer Nowak. **Bartels** seconded. Hearing no further discussion, the vote was called and the motion was approved with one opposing vote (**Bozarth**).

C. ADDITIONAL RECOMMENDATION

The Board may want to recommend that the APD look into the video footage showing Officer Nowak driving on the sidewalk to determine if she violated any rules and/or regulations.

Bartels moved to accept staff's recommendation. **Souder** seconded. Hearing no further discussion, the vote was called and the motion was approved.

ACRB CASE NO 16-099, EUGENE ADDISON

A. ALLEGATION SUMMARY

The Complainant alleged that on July 9, 2016, while at the Stagecoach Bar, APD Officer Jeremy Frasier engaged in unnecessary excessive force when he grabbed him by the neck and walked him out of the bar without provocation.

B. STAFF RECOMMENDATION

ACRB Staff recommends that the allegation of Excessive Force against Officer Jeremy Frasier be assigned a finding of “**Not Sustained**” (*there is insufficient evidence to conclude that the officers committed the alleged acts of misconduct*).

1ST ISSUE: Whether Officer Frasier grabbed Mr. Addison by the neck and walked him out of the bar as alleged by the Complainant.

ACRB staff recommends that the allegation of **Excessive Force**, as it relates to this issue, against Officer Frasier be assigned a finding of **Unfounded** (*the investigation established that the officer did not commit the alleged acts of misconduct*).

2nd ISSUE: Whether Officer Frasier engaged in unnecessary excessive force when he used physical force to prevent the Complainant from re-entering the bar.

ACRB staff recommends that the allegation of **Excessive Force** against Officer Frasier be assigned a finding of **Not Sustained** (*the investigation established that there is insufficient evidence that the officer committed the alleged acts of misconduct*).

Discussion and Comments...

1. **(Williams)** I think that it was obvious that the officer's account was totally different from the complainant's...there were two different stories. The complainant said that the officer came to him...actually, inside the bar. The officer's story was that he intervened when the security person was having problems getting him out.
2. **(Bartels)** He was trying to get him back in.
3. **(Williams)** Correct. I'm sorry. Because the officer said that his job is to actually be outside and it was documented that he did file the proper paperwork to have this job.
4. **(Souder)** I agree with staff's recommendation. It was interesting the security officer said that he could sleep at the bar. Mr. Addison said that he was asleep at the table. The other party interviewed...the security officer, he did say at a table... It's a little confusing.
5. **(Harrison)** If I'm not mistaken, the city rule says that if they have a second job, they got to be outside. Right?
6. **(Lt. Webb)** They have to be outside. If something goes on, they can go inside.
7. **(Harrison)** For me, with our complainant's description of what happened as for as the facts are concerned...seeing that the officer was inside, and the officer's statement saying, he didn't intervene until he was outside. I think that it is an APD rule that the officers have to stay outside or else they lose the privilege of having the extra job. I think that you need to take that into consideration.
8. **(Robertson)** Let me clarify that. He was never inside the bar. He was outside bar.
9. **(Harrison)** Who was that the...
10. **(Robertson)** Officer Frazier.
11. **(Harrison)** That's my point. But the complainant said that he was inside.
12. **(Robertson)** Right, but he wasn't. It was the security officer that approached him inside. Officer Frazier was outside.
13. **(Bozarth)** What I read in the report, I ascertained... if there was any grabbing of the back of the neck... it was the bouncer who had done that. That is what he is accusing the officer of. The officer admitted putting him in a bear hug. Which I think is an appropriate way to deal with what he had here. I am inclined to not sustain the complaint. I believe that the officer behaved in a reasonable way.
14. **(Bartels)** One of the recommendation, the 1st issue is not ...
15. **(Robertson)** Unfounded.
16. **(Bartels)** Sorry. Unfounded, because there were other accounts that indicated the bouncer...the officer did not approach him...it was the bouncer. Then the recommendation for the 2nd issue is not sustained.
17. **(Hardnett)** You are saying that Officer Frazier was outside the whole time. Correct? But it says right here that Officer Frazier grabbed him by the neck.
18. **(Robertson)** That is the allegation.

19. *(Williams)* You know what also was interesting? None of his friends saw this. They didn't even know what had happened until the officer later asked him what did your friends have on and he went back in and found his friends and brought them back out.
20. *(Pitre)* I agree. Someone should have witnessed that.

C. BOARD VOTE ON 1st ALLEGATION FOR EXCESSIVE FORCE - OFFICER FRASIER

Chair Williams opened the floor for a motion. *Houston-Torrence* moved to accept staff's recommendation to assign a finding of **Unfounded** against Frazier. *Hardnett* seconded. Hearing no further discussion, the vote was called and the motion was approved with one opposing vote (*Harrison*).

D. BOARD VOTE ON 2nd ALLEGATION FOR EXCESSIVE FORCE - OFFICER FRASIER

Chair Williams opened the floor for a motion. *Bartels* moved to accept staff's recommendation to assign a finding of **Not Sustained** against Frazier. *Pitre* seconded. Hearing no further discussion, the vote was called and the motion was approved with one opposing vote (*Harrison & McDaniel*).

ACRB CASE NO 16-103, PATRICIA WALKER

A. ALLEGATION SUMMARY

The Complainant alleged that on July 14, 2016, APD Officer Barracia Wilcox failed to put her side of the story in the incident report. The Complainant further alleged that Officer Wilcox laughed at her when she reported that she had been struck in the head with a credit card by the store clerk.

B. STAFF RECOMMENDATION

1st Allegation: Ms. Walker alleged that Officer Wilcox failed to put her version of what occurred at the Race Way in the police report.

ACRB Staff recommends that the allegation of Appropriate Action Required against Officer Wilcox be assigned a finding of **Unfounded** (*the investigation established that the Officer did not commit the alleged acts of misconduct*).

2nd Allegation: Ms. Walker further alleged that Officer Wilcox laughed at her when she was told the officer that the store clerk had struck her in the head with a credit card.

ACRB staff recommends that the allegation of Appropriate Action Required against Office Wilcox be assigned a finding of **Sustained** (*the investigation established that there is sufficient evidence that the officer committed the allege acts of misconduct*).

Discussion and Comments...

1. *(Souder)* They didn't have any videos at all?
2. *(Robertson)* I didn't inquire whether or not they have video because just based on the officer's incident report and because I couldn't interview the officer because he had resigned. It was pretty much straight forward as it relates to the allegations about what she was claiming that happened. That is why I didn't inquire about the video.
3. *(Souder)* My concern was related to the fact that she said that the clerk threw the credit card and she did have an abrasion above her eye. I thought that maybe a video would have helped...as least determine if she was telling the truth.
4. *(McDaniel)* They didn't have any video footage, right?
5. *(Robertson)* Not that I can recall. No.
6. *(McDaniel)* I was just having a hard time grasping the credit card...could do that much damage.
7. *(Williams)* What was the time lapse from when the incident occurred to the report?

8. **(Robertson)** She filed her report of the 21st of July and the incident happened on the 14th.
9. **(Hardnett)** From my understanding, this isn't the first time that she caused disturbance at the RaceWay. It took this time for the store to finally say that she couldn't come back on the property?
10. **(Bozarth)** I sense from your report that there has been some history of bad blood between Ms. Walker and the people at this particular convenience store.
11. **(Hardnett)** Exactly, so why keep going back to that store? It's a BP right next to RaceWay on Campbellton Road.
12. **(Williams)** Actually, there are four gas stations within a block...
13. **(Bozarth)** The officer admitted smiling but I don't think that we want to hold the officers to a standard that they must be somber at all times. I would suggest that we render a motion to not sustain.

C. BOARD VOTES ON STAFF RECOMMENDATION – 1st ALLEGATION

Chair Williams opened the floor for a motion. **Souder moved** to accept staff's recommendation to assign a finding of **Unfounded** against Officer Wilcox. **Hardnett** seconded. Hearing no further discussion, the vote was called and the motion was approved.

D. BOARD VOTES ON STAFF RECOMMENDATION – 2nd ALLEGATION

Discussion and Comments...

1. **(Houston-Torrence)** I agree with what Bill said about holding officers to an unrealistic standard.
2. **(Hardnett)** I think that the laceration was already there and she just used the credit card incident to say that's what happened.
3. **(Brogdon)** It's not about the laceration; it's whether she committed the act and I think it is technically about the violation of policy and my opinion on it, is that, it would be sustained. I don't think that he should be punished. I do agree with Bill...we have to recognize that this is a violation of policy. But at the same time, you don't punish somebody for smiling at something that is ridiculous.
4. **(Bartels)** It's not clear exactly what the officer did. The allegation is that the officer laughed and in the officer's report, she said that she smiled. That was my interpretation.
5. **(Houston-Torrence)** She said that she wasn't laughing at her...she told her that. She said that "I don't want there to be a mistake that I was laughing at her."

Bozarth moved to accept staff's recommendation to assign a finding of **not sustained** against Officer Wilcox. **Houston-Torrence** seconded. Hearing no further discussion, the vote was called and the motion was approved with two opposing votes (**Brogdon & Pitre**).

ACRB CASE NO 16-107, ERICA TUCKER

A. ALLEGATION SUMMARY

The Complainant alleged that on August 1, 2016, APD Officers Jenna Sobocinski and Marsha Francis were sent to 738 Myrtle Street to harass her.

B. STAFF RECOMMENDATION

ACRB staff recommends that the allegation of Harassment against Officer Jenna Sobocinski be assigned a finding of **Unfounded** (*the investigation established that the officer did not commit the alleged acts of misconduct*).

Furthermore, although Officer Marsha Francis was not interviewed pertaining to the Complainant's allegations, based on the evidence that was obtained during the investigation, there is nothing to indicate that the officer committed the alleged act of **Harassment** and recommends a finding of **Unfounded**.

Discussion and Comments...

1. **(McDaniel)** *It is weird that she was going to an interview regarding a police officer and then they received a call for the alarm...and she assumed that they were there for her.*
2. **(Houston-Torrence)** *I agree with what Tracee (McDaniel) is saying. What I want to ascertain is, why was she actually here? How public was that...the investigation that she was talking to Sally Sears about? Would anybody have known that?*
3. **(Robertson)** *As far as I know, no one knew that she was coming for the interview.*
4. **(Bozarth)** *Did she have some history/issues that we handled here at ACRB?*
5. **(Robertson)** *Yes, she had filed a previous complaint against another officer for excessive force and abusive language and the board sustained the excessive force component of it.*
6. **(Bozarth)** *How long ago was that?*
7. **(Robertson)** *It was about 2 years ago.*
8. **(Bozarth)** *Unless there is something else that would have triggered some sort of fear; I think that this claim doesn't have any merit. I think that we need to agree with staff's recommendation to not sustain. Is there anything you can say about any other reasons she had to believe other than the appearance...through conversation?*
9. **(Robertson)** *No. When she called me to discuss the complaint, she said, it could just be her. That was just a feeling that she had. She wasn't totally convinced that was the case, but she just wanted us to look into it to find out whether or not it was.*
10. **(Souder)** *Did you ask the officer about the statements that the witness and she made saying that the officer made it to the other officer and that she should not...*
11. **(Robertson)** *One of the officers, I was unable to interview her because she is on leave. Yes, I did and she said, that she doesn't recall making such a statement. They were just there for an alarm call.*
12. **(McDaniel)** *I don't recall a statement about the evidence that there was an alarm.*
13. **(Robertson)** *Yes it was. I called them and it was Xfinity Homes that called 911 to report the call. The audible alarm.*
14. **(McDaniel)** *The maintenance people said that they set it off.*
15. **(Pitre)** *Were the maintenance people interviewed?*
16. **(Robertson)** *No.*

Chair Williams opened the floor for a motion. **Bozarth** moved to accept staff's recommendation to assign a finding of **Unfounded** against Officers Jenna Sobocinski and Marsha Francis. **Bartels** seconded. Hearing no further discussion, the vote was called and the motion was approved.

ACRB CASE NO 16-119, JONATHAN PIERCE

A. ALLEGATION SUMMARY

The Complainant alleged that on August 19, 2016, during a traffic stop, APD Officer Roderick Bowens recklessly issued him another motorist's citation and driver's license.

B. STAFF RECOMMENDATION

ACRB Staff recommends that the allegation of **Appropriate Action Required** against Officer Roderick Bowens be assigned a finding of **Sustained** (*the investigation established that there is sufficient evidence that the officer committed the allege acts of misconduct*).

C. ADDITIONAL RECOMMENDATION

APD ensures that all of their officers that are using the handheld electronic devices to write traffic citations be adequately trained on the use of those devices.

Discussion and Comments...

1. **(Bozarth)** *I think that it is pretty clear that the officer made a mistake by mixing up the driver's licenses and citations. There is no question about it. I believe that the complaint should be sustained for appropriate action required as charged. This is similar like the one where the officer; a couple of months ago left a man's driver's license on top of the car. Satisfaction is what we give the citizens when a policeman does make a mistake like this. Maybe if you don't mind delaying that discussion, I am ready to propose that we sustain the complaint against Officer Bowens.*
2. **(Bartels)** *I recall correctly, last time we discussed, there wasn't a clear policy in place to compensate the citizens when this sort of thing like this happens. I don't necessarily think that it's any kind of bad faith...it's an honest mistake. Especially, when an officer had a busy night. I would be in favor of sustaining as well. It's clear what happened. This will be a second.*
3. **(Harrison)** *Is it possibly to add an amendment to the second or to the actual motion itself that said, this is the second time in the last month that we have dealt with this and to have someone from APD take a look at it or to investigate it a little further?*

Bozarth moved to accept staff's recommendation to assign a finding of **Sustained** against Officer Bowens with regards to the Appropriate Action Required allegation. **Bartels** seconded. Hearing no further discussion, the vote was called and the motion was approved.

D. BOARD'S VOTE ON ADDITIONAL RECOMMENDATION

Discussion and Comments...

1. **(Houston-Torrence)** *If they lose their license, they should pay for that. There should be some kind of compensation for that if their license is not returned.*
2. **(Bozarth)** *Let me ask the Lieutenant (Lt. Webb) something. This is totally off the wall...simply having one of the officers for this precinct call Mr. Pierson and say, we're really sorry that this happened. We mess us sometimes; we don't mean to. Do we ever try and do that to create a community relationship?*
3. **(Lt. Webb)** *In some situations...their Lieutenant or their sergeant will call, if find out that something went wrong. I can't answer and say that for each precinct that is how they do it, but in some cases, they do.*
4. **(Bozarth)** *Police are willing to apologize? That's not a problem?*
5. **(Lt. Webb)** *No.*
6. **(Bozarth)** *That will be more appropriate than paying them ten bucks to get their license. Acknowledge the mistake was made and sorry that it happened. I don't know what Mr. Pierce would say. That might very well satisfy him. He got the ticket and I think that he didn't have to pay. He got off easy in a sense that he didn't have to pay for getting in the HOV lane when he really did.*
7. **(Lt. Webb)** *He can file a complaint with the Law Department.*
8. **(Williams)** *He did.*
9. **(McDaniel)** *This is about someone riding in the HOV lane, what does this have to do with training on held hand devices?*
10. **(Williams)** *The wrong information was given to another drivers so, obviously, when it was printed out, he didn't notice that it didn't belong...it's kind of like the equivalent of the store taking your credit card; sliding it and given you back the wrong one. Do we want to take these recommendations and add to it? My question to staff is when we made the last recommendation; something similar, can we take that verbiage so they can see that we have asked them for the same thing twice? I don't think that we want to say something different every time. I think that we want to say that this is another case again; we are making another recommendation...*
11. **(Bozarth)** *My recommendation is for the supervisor officer at this precinct to give the gentlemen a call.*
12. **(Reid)** *On that last case, we did some research on it. If I remember correctly, I think that was included in your last ED report. We can reference the last case that we had and use the recommendation you were talking about. As Lieutenant Webb was saying, citizens do have the Law Department that they can submit a claim to. If I remember correctly, from the research that we talked about...them having the case that we sustained. Using that as additional evidence to help them get the claim from the City, as it relates to replacing their license. It's not going to do anything for the time and the aggravation that they went through but it helps. Then there's another recommendation. In a situation like that, you would think that the supervisor would be able to handle that type of situation. If they found out about it in a timely manner. When you have lag time...the*

license or documents are long gone by that time, you are not going to be able to do anything as far as trying to get the actual documents back.

13. **(Houston-Torrence)** *For clarification, will they start with the Law Department? Is that how they compensate?*
14. **(Reid)** *Yes. They have a claim department and they will do an investigation on it and they will determine if they will reimburse the citizen. They can use our case to substantiate what the citizen is saying.*
15. **(Williams)** *Do we let them know that? More specifically, did we tell the person who actually lost money in previous case?*
16. **(Reid)** *That is what we talked about in the ED report...going forward telling people what they can do. It is my understanding that we do let them know about the claim department if they are trying to get some reimbursement.*
17. **(Williams)** *Now, we have the recommendation that the staff offered and we want to add Bill Bozarth's recommendation. Do you want to repeat it?*
18. **(Bozarth)** *In the letter that we send, saying that we sustained the case, we suggest as a community relations gesture that a supervisory officer contact the individual and apologize for the inconvenience.*

Chair Williams opened the floor for a motion. **Bozarth** moved to recommend that APD have a supervisor contact the Complainant and offer him an apology for the inconvenience of having to obtain a replacement of his driver's license. **Bartels** seconded. Calling for the vote and hearing no further discussion, the motion was approved.

E. BOARD'S VOTE ON DISCIPLINE RECOMMENDATION

Officer Information and Professional Standards History: This is a category A violation. Officer Bowens has been with APD since February 12, 2002. Within the past five years, he has had three complaints. One, was a vehicle accident that is still pending; another was an officer-involved shooting in 2011 (exonerated); the last was in 2015...a complaint against officer Bowens, during a traffic stop, Officer Bowens made her nervous and confused, silent her rights on the citation. She felt for her safety and said that he was rude. He was exonerated.

Discussion and Comments...

1. **(Robertson)** *This would be a category 'A' violation.*
2. **(Bozarth)** *I would suggest that considering that there was no malicious intent on the officer's part; it was a mistake...oral admonishment, nothing more than that.*

Souder moved to make a recommend that Officer Bowens receive an oral reprimand and retraining on the use of the handheld electronic device that he uses to write traffic citations. **Bartels** seconded. Hearing no further discussion, the motion was approved.

OLD BUSINESS

Discussion and Comments

1. **(Bozarth)** *I just noticed in our package tonight, there was a letter from the chief of the city jail... The ordinance required both chief of police, as well as this chief to give us more detail information?*
2. **(Reid)** *It does.*
3. **(Bozarth)** *Are you satisfied with the latest explanations?*
4. **(Reid)** *No. Actually, we met with corrections today, Major Pritchett to discuss that and also to discuss officers coming to the meetings when we have corrections cases. She is going to take that back to the chief to see what can be done.*

NEW BUSINESS:

Discussion and Comments

1. **(Reid)** *When we make decisions on the cases, we have to be careful, picking and choosing which policies we want to enforce and when, because that puts us in a bad position when we are trying to create a consistent record of holding officers accountable. That is what gets a lot of police officers in trouble because they say, oh, well, it was minor, so we don't want to enforce that type of policy. I'm talking about case number 16-103. If there is a problem with the policy, then they need to change the policy to give a little more leeway. The policy is there so that they can keep a standard. I think what Board Member Brogdon said, it's a violation, yet it might be minor, you should sustain it, don't put any discipline with it and you move forward to make sure you're staying consistent, because if we want to hold the police department consistent to how they enforce their policies.*
2. **(Souder)** *I understand what you are saying. To me personally, we all are independent on how we vote. I don't believe that she did violate the policy because she could have been smiling just hearing the story, not at the person. I can't believe that there is an APD policy that an officer can't smile. She said that she didn't laugh at her. I'm just wanted to clarify that. I don't think that everyone on the board thought it was a policy violation.*
3. **(Reid)** *That makes sense. The question is... what the citizen perceives in dealing with the officer? I definitely get it. She could have been thinking about what she was going to do after work or anything. Under that situation, for the citizen who's feeling like they have an issue and they perceive someone taking it lightly...that is something that we have to think about and take in consideration. A lot of things are subjective. That's why we get complaints. Because somebody receive something from someone else and they felt like they were bothered by it. In most of those cases, we don't have the evidence to sustain it or not sustain it. In this situation here, you have an officer that said, "Yes, I smiled!" I think she said... I was smiling about her situation. How do we honestly know that?*
4. **(Houston-Torrence)** *I think the fact that she made an attempt at that moment to tell her. If she had not said anything...She admitted, yes, I did.*
5. **(Reid)** *The credit comes with the penalty. What are you going to do about it? We are not going to do anything about it, but we are letting you know, you can't do that. Even though you are just smiling and thinking about something else, we are letting you know that's not cool in a situation, because how a citizen may take it. I know, it sounds like an unrealistic standard, but then, that's the problem. That has to be addressed with the policy. When you are looking at these cases, you have to be thinking about the officers' actions, but also the policies and how they apply to the real world and how the standards that we are going to hold our officers to.*
6. **(Robertson)** *I think that the policy that he is referring to is SOP Section 2010. It states that an employee shall respond in an appropriate manner to all situations by being considerate of the rights, feelings, and interests of all persons. When Ms. Walker filed the complaint...the way that she explained the situation and how it occurred, it can make you have that type of response. However, it is something that you should talk through in your head. When she was explaining it to me, I didn't smile or laugh at her, but I had something in my head...it's very animated. I think that's why the officer put that in her statement because she knew what she did was wrong. That's why she said, ok, let me make sure that I go back and put this in the report because I know that she will go back to complain that I did that.*
7. **(Houston-Torrence)** *You are an attorney, right?*
8. **(Reid)** *Yes.*
9. **(Williams)** *The good news is, this is the Citizen Review Board and we are human beings; the police officers are human beings, and the complainants are human beings. This is a healthy discussion. None of us are perfect. We will not be perfect. I don't think that we want a board that never questions a situation; whether it is for or against the policy. That is why all of us in here and we don't want to stop people from speaking out for or against a policy that we or our colleagues do not agree with. I don't think that it is a right or wrong answer here. All of us have different opinions about different situations. I don't want to ever see a board that will always vote in agreement with every single thing. All of us vote based on our background and our experiences. This is healthy.*

PUBLIC COMMENTS:

No Public Comments

Announcement:

The DeKalb County District Attorney's Office will be offering an expungement seminar to DeKalb residents. The seminar will be held on Saturday, December 10, 2016. To find out more information, contact the Hotline at 404-371-2770.

Discussion and Comments...

1. *(Bartels) That's really good information to pass on. Just an FYI, because this is an issue. Criminal records and record expungement affects so many of us because of the people we know. It's probably the most frequent call that I get. People do need to understand that under Georgia law, the only arrests that can be restricted are cases which were dismissed. For instance, somebody entered a plea or convicted; unfortunately, that does not qualify. If anybody knows of someone, please make them aware.*
2. *(Lolar) I believe that is just for the individuals that are charged with a felony; not convicted.*
3. *(Williams) Correct. I want to wish everyone a Merry Christmas, Happy Hanukkah, Happy Kwanzaa and a Happy New Year. Thank you for all that you have done in 2016. I want to thank staff, Law Department and all of the board members. We have done some great work.*

ADJOURNMENT

No further business, by show of consensus, the meeting adjourned at 7:23 P.M.

ACRB Minutes for December 8, 2016 were approved: January 12, 2017
Paul Bartels, Board Secretary

Transcribed: LG