



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

February 9, 2017  
2<sup>nd</sup> Floor Atrium, Committee Room One  
55 Trinity Avenue, S.W.  
Atlanta, Georgia 30303  
5:30 p.m.

The February 2017 meeting was called to order by *Chair Williams* at 5:31 p.m.

*Special Note: The meeting started 1-hour early to accommodate training for the board. It should be noted that the training was canceled due to the presenter was unable to attend the training.*

**AGENDA**

**ROLL CALL**

*(The ACRB has thirteen members)*

**ACTIVE MEMBERS PRESENT**

**SHERRY WILLIAMS** *(Chair/Williams) (Departure 6:30 p.m.)*    **GINO BROGDON** *(Brogdon)*  
**PAUL BARTELS** *((Secretary/Bartels)(Arrival 5:49 p.m.)*    **HAROLD HARDNETT** *(Hardnett) (Arrival 6:06 p.m.)*  
**BILL BOZARTH** *(Bozarth)*    **SHUNTAY PITRE** *(Pitre)*  
**GERALD SOUDER** *(Vice Chair/Souder)*  
**TRACEE MCDANIEL** *(McDaniel)*

**ACTIVE MEMBERS ABSENT**

**CECILIA HOUSTON-TORRENCE** *(Torrence)*  
**WILLIAM HARRISON** *(Harrison)*

**VACANT BOARD SEATS**

**APAB-NPU, Group S – Z** *(1 year and 9 months)*  
**City Council President** *(8 months)*  
**Coalition for the Peoples' Agenda** *(10 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 SCOTT BENNET**, Atlanta Police Department, (*Lt. Bennet*).

## **APPROVAL OF MINUTES OF THE LAST MEETING, JANUARY 2017**

*Chair Williams* advised staff that corrections were emailed to staff. To be noted, corrections were made prior to board meeting.

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

Special Note: It should be noted that the training on Open Records/Open Meetings Act, presented by the Office of the City Attorney's Office has been postponed to March meeting.

## **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*:

- **MLK March**  
*Director Reid* thanked Board Member Bartels, the ACRB Staff, the 12 COVAP volunteers and those who brought their children, to the annual Martin Luther King Jr. march along Peachtree Street and Auburn Avenue for the MLK Holiday on January 16<sup>th</sup>. COVAP volunteers and some of their kids passed out more than 200 goody bags along the march route containing ACRB brochures, pens, crayons and refrigerator magnets. ACRB Superhero, Captain Integrity, made his debut appearance at the march. He greeted parents and entertained kids, taking pictures and passing out black and red facemasks. The superhero was well received by the kids and adults.
- **APD Citizen's Academy**  
APD Training anticipates that a new citizen academy class may begin on or about February 22, 2016. All board members are under an obligation to attend APD citizen's academy. Please begin checking your calendars to determine when you will be able to attend. The academy is usually held in the spring and fall and is usually on Wednesday from 6-9 p.m. Board members will receive compensation for attending.
- **Board Elections**  
Board elections will occur during the February board meeting. You will be electing the Chair, Vice Chair, and Secretary positions. You should have received the elections guide a couple of weeks ago.
- **Early Meeting Time**  
February meetings will begin at 5:30 p.m. to accommodate board training (Open Records/Open Meetings Act).
- **Reports to Appointment Entities**  
Please remember to make reports to your appointing entities and communicate to the board that you have made your reports.
- **Important Financial Disclosures Dates**  
If you served on the board after February 15, 2016, for any period of time, by law, you must file a disclosure.
  - ✓ March 1, 2017 – Go Live Date. 2017 Financial Disclosure Statement is available online.
  - ✓ March 20, 2017 – E-Filing in City Hall Atrium

- ✓ April 3, 2017 – Filing deadline
- ✓ April 17, 2017 – Filing grace period ends
- ✓ April 18, 2017 – Late filing penalties begin

- **Meeting with APD – OPS Major Murphy**

*Director Reid* met with Office of Professional Standards Commander Major Murphy. We discussed the timing of ACRB complaint notifications sent to the APD. We also began the discussion related to how police and ACRB accountability data is analyzed.

- **Kazakhstan Delegation**

On February 6, the office participated in a Friendship Force of Greater Atlanta: Open World Program with delegates from the nation of Kazakhstan. We talked with approximately 12 individuals from the Friendship Force. Members of the Kazakhstan delegation were very interested in the ACRB operation. Many of their questions involved agency set-up, retaliation, board member representation.

- **February Board Training**

The City Attorney’s Office will conduct training on Open Records/Open Meetings during the beginning of the February board meeting. Please be advised that if you arrived to the board meeting after the training, you will not be counted as having completed the training. \* **Please note: The training on Open Records/Open Meetings has been rescheduled for March board meeting. The meeting will start at 5:30 p.m.**

- **Website Members’ Only Section**

The ACRB has placed March cases in the ACRB Members’ Only section. Please send an email to Lynn Garrett, [ldgarrett@atlantaga.gov](mailto:ldgarrett@atlantaga.gov) and Myola Smith, [mmsmith@atlantaga.gov](mailto:mmsmith@atlantaga.gov) indicating your preference.

*Special Recognition: Director Reid presented Board Member Gerald Souder with gift of appreciation. Souder’s term of service has ended. He has been with the Atlanta Citizen Review Board since October 2013. Reid thanked Souder for his commitment and dedication to ACRB and the citizens of Atlanta.*

## **INTAKE REPORT FOR JANUARY 2017**

Investigation Manager *Robertson* reported that for the month of January 2017, the ACRB received nineteen (19) complaints.

### **A. COMPLAINT BREAKDOWN AND STAFF RECOMMENDATIONS:**

The ACRB staff is seeking approval to possibly dismiss eight (8) of the nineteen (19) complaints. Five (5) complaints are waiting for signatures. 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. 17-001**

The Complainant, an inmate at the Georgia State Diagnostic & Classification Prison, alleges misconduct on behalf of a DeKalb County Judge and the DeKalb County District Attorney’s Office pertaining to his criminal case. *Recommend dismissal for lack of jurisdiction.*

2. **ACRB Case No. 17-002 – Unlawfully Stopped & Detained**

The Complainant alleges that on January 5, 2017, she was unlawfully stopped by an APD officer. As a result of the stop, she was arrested for having two outstanding warrants.

*Awaiting the 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.*

3. ACRB Case No. 17-003  
The Complainant alleges that on January 2, 2017, he was unlawfully stopped and cited for making an illegal U-turn. He further alleges that the officer was intoxicated and wrote the wrong information on the citation. *Preliminary investigation revealed that the involved officer is employed by the Fulton County Police Department. Recommend dismissal for lack of jurisdiction.*
4. ACRB Case No. 17- 006  
The Complainant sent an email to the ACRB pertaining to an issue concerning his property that was recovered by the APD in 2015. *Recommend dismissal. The incident occurred outside the 180 days and is time barred.*
5. ACRB Case No. 17-008 - Discrimination  
The Complainant filed a discrimination complaint against officers at the Dodge State Prison pertaining to an incident that occurred on November 21, 2016. *Recommend dismissal for lack of jurisdiction.*
6. ACRB Case No. 17-009 – False Arrest  
The Complainant alleges an APD Officer unlawfully entered her residence numerous times (she advised that the last time was over six months ago). *Recommend dismissal. The incident occurred outside the 180 days and is time barred.*
7. ACRB Case No. 17-010 – Excessive Force & Unlawful Entry  
The Complainant alleges that an APD officer tackled her to the ground for no reason. She also alleges that the officer unlawfully entered her residence. *Awaiting the Complainant’s signed complaint. If the signed complaint is received within the next few weeks, then recommend investigation as an excessive force and appropriate action required complaint. If signed complaint is not received, then recommend dismissal.*
8. ACRB Case No. 17-011 – Inappropriate Comment & Ordered to Leave Property  
The Complainant alleges that on January 7, 2017, while at the Lennox Market Place, an APD officer made an inappropriate comment to her and ordered her off of the property. *Awaiting the Complainant’s signed complaint. If the signed complaint is received within the next few weeks, then recommend investigation as a conduct and appropriate action required complaint. If signed complaint is not received, then recommend dismissal.*
9. ACRB Case No. 17-013 – False Imprisonment  
An anonymous caller alleges that in January 2017, he was unlawfully stopped and detained by an APD Officer. *The caller did not provide any specific facts, details or identifying information that could assist with an investigation. Recommend dismissal for lack of information.*
10. ACRB Case No. 17-016 – Lying  
The Complainant, an inmate at the Atlanta Detention Center (ADC), alleges that on January 21, 2017, two correction officers (black male and black female) at the ADC lied to the judge that he refused to go to court and as a result his court date was rescheduled. *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. 17-017– Rude and Unprofessional Behavior

The Complainant alleges that on January 30, 2017, the APD officer that responded to her residence involving an incident between she and her neighbor was rude and unprofessional towards her. *Awaiting the Complainant's signed complaint. If the signed complaint is received within the next few weeks, then recommend investigation as a conduct and appropriate action required complaint. If the signed complaint is not received, then recommend dismissal.*

12. ACRB Case No. 17-018 – Unknown

The Complainant called the ACRB office to complain about an encounter with APD that occurred over two years ago (no further details were provided). *Recommend dismissal. The incident occurred outside the 180 days and is time barred.*

13. ACRB Case No. 17-019 – Inadequate Services

An anonymous caller called the ACRB office to file a complaint regarding the way the APD is handling residential alarm calls and the concentration of traffic enforcement on Campbellton Road and Fairburn Road. *Recommend dismissal for lack of jurisdiction.*

**Investigation recommendations:**

The following six (6) cases are recommended for investigation:

1. ACRB Case No. 17-004 – Failure to Adequately Investigate

The Complainant alleges that on January 10, 2017, an APD Sergeant failed to adequately investigate and complete a report pertaining to an incident that occurred at Grady Hospital involving him and the officer at the hospital.

**Therefore, recommend investigation as an appropriate action required complaint.**

2. ACRB Case No. 17-005 – Failure to Properly Inventory Property

The Complainant alleges that on August 26, 2016, the arresting APD officer failed to adequately investigate and complete a report pertaining to an incident that occurred at Grady Hospital involving him and the officers at the hospital.

**Therefore, recommend investigation as an appropriate action required complaint.**

3. ACRB Case No. 17-007 – Anonymus

An anonymous caller alleges that an APD officer was responsible for getting a shuttle bus driver for Airport Park Ride, suspended by lying to the driver's manager that she was acting in an unprofessional manner pertaining to an incident that occurred on December 23, 2016.

**Recommend investigation as a conduct complaint.**

4. ACRB Case No. 17-012 Reckless Driving

An Anonymous caller alleges that on January 18, 2017, at approximately 4:00 p.m., an APD officer driving vehicle #30998 cut the caller off which almost resulted in an accident.

**Recommend investigation as a conduct complaint.**

5. ACRB Case No. 17-014 – Inadequate Report

The Complainant alleges that on January 5, 2017, the APD officer that responded to the accident scene involving her and another motorist provided inaccurate information on the accident report.

**Recommend investigation as an appropriate action required complaint.**

6. ACRB Case No. 17-015 Car Illegally Impounded, Inappropriate Comment & Refused of Services

The Complainant alleges that on December 1, 2016, his vehicle was unlawfully impounded by an APD officer. He further alleges that the officer told him to shut up and canceled his request for another officer to report to the scene. The Complainant further alleges that the information the officer put in the report was false and contained a lot of inaccuracies.

*Recommend investigation as an appropriate action required and conduct complaint.*

B. RECONSIDERATION OF COMPLAINTS

1. ACRB Case No. 15-147 – False Arrest, False Imprisonment & Excessive Force

In December 2015, the Complainant filed a false imprisonment, false arrest and excessive force complaint against APD officers pertaining to an incident that occurred on August 18, 2015.

*The Complainant no longer wants to pursue this matter and has withdrawn his complaint.*

2. ACRB Case No. 16-176 – Appropriate Action Required

In December 2016, the Complainant filed an appropriate action required complaint against an APD officer pertaining to an incident that occurred on December 3, 2016. ACRB's numerous attempts to obtain a statement from the Complainant have been unsuccessful.

*Therefore, recommend for dismissal for lack of cooperation.*

*Discussion and Comments...*

1. *(Bozarth) On the reconsideration number one, I assumed that our investigation was still in progress?*
2. *(Robertson) It had been suspended because we were waiting to find out the outcome of his criminal case was and it had recently been resolved. I think that may have had something to do with him no longer wanting to pursue the matter.*
3. *(Bozarth) He contacted you after that...*
4. *(Robertson) Once we found out that his case was resolved, the investigator who was assigned to the case, called him and that is when he notified that he didn't want to pursue the matter.*

C. BOARD VOTES ON INTAKE REPORT

**Souder** moved to accept the Intake Report for January. **Brogdon** seconded. Hearing no further discussion, the motion was approved.

*Special note: It should be noted that 2017 elections are to take place at this time; however, Chair Williams informed the board that there will be a change in order of the agenda to accommodate the arrival of Bartels, who is currently running for office.*

**COMPLAINTS REVIEW:**

**ACRB CASE NO 16-022**

A. ALLEGATION SUMMARY

The Complainant alleged that on January 7, 2016, while at 1020 Lindberg Drive, Atlanta Police Officer Christopher Harding falsely arrested him.

B. STAFF RECOMMENDATION

The ACRB staff recommends that the allegation of **False Arrest** against Officer Harding be assigned a finding of **Exonerated** (*the investigation established that the alleged acts occurred, but were justified, legal or properly within Department policy*).

*Discussion and Comments...*

1. *(Bozarth) We process the complaint by the complainant late last year. I noticed part of the narrative that you gave us for the interview was about that incident. Were you trying to tie something together there?*
2. *(Fleming) When I interview him, he went from one incident to the other. We broke it up into two separate incidents. That's why they ran together. It was suspended as well.*
3. *(Bozarth) For purposes of this complaint, we just needed to read the latter part of that interview.*
4. *(Fleming) Absolutely.*
5. *(Bozarth) I was confused as to who owns this house.*
6. *(Fleming) The primary owner is the witness.*
7. *(Bozarth) So the complainant is saying the witness?*
8. *(Fleming) Correct.*
9. *(Brogdon) The piece that seems to be straight forward to me is...they're in a fight; both people can be arrested. Especially since you don't know there are conflicting stories. I think that is basically what you said. I totally agree with staff's recommendation to exonerate.*
10. *(Bozarth) Is it common when a police officer is called to a domestic disturbance ...if someone has been injured or there has been some physical violence...that triggers an arrest?*
11. *(Fleming) Yes. There was physical violence and injuries.*
12. *(Bozarth) So he was following procedures?*
13. *(Fleming) Absolutely.*
14. *(Bozarth) Just out of curiosity. The charges were dropped. We see this again and again, the officer issue some sort of citation. Do you have any ideal why the case had not been prosecuted?*
15. *(Fleming) The witness did not cooperate. Without the cooperation, they could not have moved forward.*

**Souder** moved to adopt staff's recommendation to assign a finding of **exonerated** for False Arrest against Officer Harding. **Pitre** seconded. Hearing no further discussion, the motion was approved.

**ACRB CASE NO 16-056**

A. ALLEGATION SUMMARY

The Complainant alleges that on March 23, 2016, Officer Leander Delicieux arrested him without cause.

The Complainant also alleged that Officer Delicieux mishandled his property that he confiscated from him during his arrest.

B. STAFF RECOMMENDATION

ACRB staff recommends that the allegation of **False Arrest** against Officer Delicieux be a finding of **Exonerated** (*the investigation established that the officer's act was lawful, justified and in accordance to APD policy*).

ACRB staff recommends that the allegation of **Appropriate Action Required** against Officer Delicieux be assigned a finding of **Not sustained** (*as there is insufficient evidence to substantiate this claim*).

*Discussion and Comments...*

1. **(Brogdon)** *I think on the false arrest, the Complainant had an outstanding warrant, his license weren't valid and his vehicle wasn't properly registered. I disagree with it being a false arrest. I totally agree with the staff's recommendation on exonerated. The officer had more than enough reasons to pull the person over.*

C. BOARD'S VOTE ON 1<sup>ST</sup> ALLEGATION OF FALSE ARREST ON OFFICER DELICIEUX

**Chair Williams** opened the floor for a motion. **Brogdon** moved to accept staff's recommendation to assign a finding of **Exonerated** for **False Arrest** allegation against Officer Delicieux. **Brogdon** seconded. Hearing no further discussion, the vote was called and the motion was approved.

*Discussion and Comments...*

1. **(Bozarth)** *Here's a case where there is no finding post. He pleaded nolo on three out of four charges. Any background on why no finding post?*
2. **(Robertson)** *No. I don't have that information.*

D. BOARD'S VOTE ON 2<sup>ND</sup> ALLEGATION OF APPROPRIATE ACTION REQUIRED ON OFFICER DELICIEUX

*Discussion and Comments...*

1. **(Souder)** *Is there a policy that when they confiscate property or when they arrest somebody, they should inventory it...a detail inventory? What I understand in the case is, the officer said that he turned in everything that he took and when APD returned it, they said that they returned everything that was in there. There's no inventory for what I understand.*
2. **(Robertson)** *It was labeled personal property.*
3. **(Souder)** *That's all? No list? Is that procedure?*
4. **(Robertson)** *Normally, there a list of items, but in this particular case, there wasn't a list.*
5. **(Bartels)** *There is normally a detailed list.*
6. **(Brogdon)** *Are there any policies APD has about creating a list, as opposed to a general list like that?*
7. **(Robertson)** *I would have to look deeper into that.*
8. **(Williams)** *Can we ask the officer that is present today?*
9. **(Lt. Bennet)** *I can't quote it at the top of my head. It is not common for officers to put miscellaneous stuff if somebody got a pocket full of...pocket knife, gum wrappers, change...things like that. Officers are encouraged to make a list of things that's important; car keys, cell phone, wallet...the content of the wallet. We see that frequently. People go down there and say, "I had \$500.00 dollars in my wallet and they gave me only \$472.00 back." Basically, their word against the officer.*
10. **(Williams)** *Sounds like we might need to kind of upgrade that a little bit to avoid something of this mature. That is not for us to debate at this time.*
11. **(Pitre)** *I thought that when they go into booking, the booking deputy also make a list of the property.*

12. *(Lt. Bennet) They do. There are certain thing that they are allow to take into...depend on whether they go to Fulton County or City Pre-trial. There are things that they are allowed to take with them and certain things that they are allowed to keep at the jail that they will get when they get out. It depends from department to department.*
13. *(Robertson) In this case, he listed it as personal documents. They were papers. It could be that's how he labeled those documents...as personal.*
14. *(Brogdon) I know that this isn't our issue, but I don't know if it's fair to hold the officer to a standard to go through each person's belongs and specifically to name everything. There should be more than someone just saying, "personal stuff." I really don't know the middle ground on that, but that's not our issue.*
15. *(Williams) With what the officer just said a minute ago about shrinkage wrapping, that may be the solution in the future.*
16. *(Lt. Bennet) That's at the detention centers; I don't think that we do that.*

**Chair Williams** opened the floor for a motion. **Souder** moved to accept staff's recommendation to assign a finding of **not sustained** for **Appropriate Action Required** allegation against Officer Delicieux. **Bartels** seconded. Hearing no further discussion, the vote was called and the motion was approved.

## ELECTION OF OFFICERS FOR 2017

**Chair Williams** announced that February is the month whereby each year, new officers are elected to lead the board.

Executive **Director Reid** facilitated the election announcing the three open positions and the names of the candidates who had expressed an interest:

Board Chair  
Sherry Williams

Board Vice Chair:  
Gino Brogdon

Board Secretary:  
Paul Bartels

**Smith** opened the floor for additional nominations.

Following the comments, each member received a ballot. No other nominations were made from the floor.

The following people were nominated:

Board Chair: Sherry Williams (*unopposed*)  
Vice Chair: Gino Brogdon (*unopposed*)  
Secretary: Paul Bartels (*unopposed*)

The floor was opened to the candidates to address the board explaining why they are interested in running for the open positions. Each candidate has three minutes to comment. The following comments were made:

### Sherry Williams, Candidate

*"I joined the board four years ago. The time that I have been on the board, I have enjoyed being here, representing NPU Group G-L. I attend those meetings quarterly to report what we are doing. I had the pleasure going to the NACOLE Conference two years ago; where we can see how citizen review boards across the country operate; the differences, as well as the similarities. While I have been here, I have participated in community activities throughout the metro Atlanta area. I was able to request and have the Mayor to come to our meeting last year. That was the first time he had been to ACRB meeting since he has been in office. When the new police chief was announced, I asked staff to request that she come. I was surprised that she came so early; she came within two weeks of being appointed. We were invited to the Black Lives Matter meeting that he*

had after requesting an invitation. I think moving forward; I would like to do the same thing; get us involved early with the people who are able to make the decisions and see if we are on the same page. I would appreciate your support in moving forward to be your chair for a second time.”

Gino Brodgon, Candidate

“I’ll be honored to be vice chair. This is something that I feel very passionate about; not just the social climate. I started working at the Cochran Firm...straight out of law school. They handled the Kathryn Johnston case. It was the case that brought me to the Cochran Firm. So this is really one of my passions. I have some ideals about getting us more digital exposure; getting more people out here because there are a lot of people that are enthused about the social climate, but don’t show up to these meetings. We have to find a middle ground. I would just be honored ...I’m honored just to be on this board and learning from you all. It has been a great experience and I want to do my part to continue to contribute to our mission.”

Paul Bartels, Candidate

“I am like the other two folks, I am really honored. I am glad to have been a part of the Citizen Review Board since 2010. I believe that this is my last year. I don’t know the exact date on that. We have had some ups and downs. In the last year, I feel really good about where this board is headed. I think that we have a great staff; great to see new members come on board and get some new blood and new ideal. I am really proud of the work that we do. I was appointed by the Atlanta Bar Association. Most of you know that I am a criminal attorney. Again, I would be honored to serve as secretary for another year and I appreciate your support.

*Discussion and Comments...*

1. **(Smith)** We have heard from all of the candidates and at this point, I want you to look at the year-end report. The year-end report there’s a covered memo. Attached to that memo, you will find an attendance chart and the second attachment to that memo is a list of all the activities, including training, public meetings, reporting back to your authority that appointed you and some other activities. Take a look at it and see how active the candidate that you are about to cast your vote for has been. In the event that we left something off, and you know that you have attended, let us know and we will correct that before the report goes out to your appointing agency.
2. **(Brogdon)** Do we just send you an email?
3. **(Smith)** Yes.
4. **(Williams)** I owe you a couple of dates also. I will get those to you as soon as I can. I will get those to you this weekend.

Following the comments, the ballots were casted. The results of the election are as follows.

**Board Chair:** Sherry Williams  
**Vice Board Chair:** Gino Brodgon  
**Secretary:** Paul Bartels

\*The 2017 officers will serve from March 2017 to February 2018.

Director **Reid** extended congratulations to the newly elected officers for 2017.

**Chair Williams** thanked the staff in assisting with the elections. **Chair Williams** reminded board members if they have not participated in a ride-along, please try and do so over the next six weeks. Contact APD for more information.

**Year-End Participation Recognition:**

**Smith** recognized Bartels, Bozarth, Souder and Williams for their participation in community outreach, trainings and reporting to their appointing agency.

## ACRB CASE NO 16-058

### A. ALLEGATION SUMMARY

The Complainant alleged that on February 22, 2016, while at 500 Boulevard Place, N.E., Atlanta Police Sgt. Darren Barr and Officer Reginald Marr falsely imprisoned him in that they unlawfully stopped and detained him which resulted in him being arrested.

The Complainant further alleged that on March 7, 2016, while at 496 Boulevard Place, N.E., Atlanta Police Officers Timothy Strickland, Reginald Marr and Justin Jackson falsely arrested him.

#### *Discussion and Comments...*

1. **(Brogdon)** *The first arrest is a little bit easier just because, there was a warrant on him for missing a 2015 court date. I think that I agree with the staff on exonerated on that first one.*
2. **(Bozarth)** *What were the circumstances when they approached the Complainant...*
3. **(Fleming)** *The officers noticed the Complainant and the Complainant noticed the officers.*
4. *Before they stopped him they ran his name and were informed that he had a warrant. Then they initiated the contact with him.*
5. **(Bozarth)** *He seems to be a familiar person in this neighborhood to the patrol officer.*
6. **(Fleming)** *Yes.*
7. **(Bozarth)** *I guess that you are right Gino (Brogdon), they saw him; they checked on him; he had a warrant and they had the right to detain him. Eventually, they took him. They took him in, right?*
8. **(Fleming)** *Yes they did.*
9. **(Souder)** *Just so you know...I live in the neighborhood and that is about a street away, so I know that particular street has lots of calls, lots of issues and complaints. Almost at every neighborhood meeting there are complaints about what goes on there. Looking at your report and what happened in addition to the warrant, I think the ideal of a suspicious person was clearly a reason why they did what they did and they know him.*

### B. STAFF RECOMMENDATION

#### **1<sup>st</sup> Incident - Allegation of False Imprisonment:**

ACRB staff recommends that the allegation of **False Imprisonment** against Sgt Barr and Officer Marr be assigned a finding of **Exonerated** (*the investigation established that the alleged act occurred, but was justified, legal or properly within Department policy*).

#### **BOARD'S VOTE ON 1<sup>ST</sup> INCIDENT**

**Chair Williams** opened the floor for a motion. **Souder** moved to accept staff's recommendation to assign a finding of **Exonerated** for **False Imprisonment** allegation against Sgt Barr and Officer Marr. **Bartels** seconded. Hearing no further discussion, the vote was called and the motion was approved.

#### **2<sup>nd</sup> Incident - Allegation of False Arrest**

ACRB staff recommends that the allegation of **False Arrest** against Officers Timothy Strickland, Reginald Marr and Justin Jackson be assigned a finding of **Sustained** (*there is sufficient evidence that the evidence that the officers committed the alleged act of misconduct*).

## BOARD'S VOTE ON 2<sup>ND</sup> INCIDENT – FALSE ARREST

### *Discussion and Comments...*

1. **(Bartels)** *Apparently, there was no marijuana booked into evidence and the case was dismissed against the Complainant. Did you determine if the case against the person that was with the Complainant was dismissed as well?*
2. **(Fleming)** *No.*
3. **(Bozarth)** *We had something similar in the past where an officer observed from far away; assuming to be smoking marijuana; they approached the person in that case, he ran; they caught him. We decided in that case, having to observe what they thought to be a rolling of a blunt...I believe that was the expression that was an acceptable reason to approach him. Yet, you said that, because of the undercover officer supposedly had seen something similar going on, why was that not a justification for them to approach the Complainant in that incident?*
4. **(Fleming)** *I can't speak for the other case. I don't know anything about that one, but for this one, he was undercover. He thought that he was rolling up a cigarette and he contacted the other officers who were on that patrol. He was actually on undercover surveillance.*
5. **(Bartels)** *Well, I think we would have to differentiate between reasonable suspicion to detain, verses probable cause to arrest and depending on the distance and how much daylight...if an officer saw something that they believe was to be a joint, that could probably be suspicious to detain somebody. But to arrest somebody, I think my concern is, if there's no marijuana recovered, then how can you charge somebody?*
6. **(Brogdon)** *It's further supported. They checked him and there's no evidence of it. They didn't put in the report that he ran or he threw anything. It just wasn't there. The sound and looking like he's rolling a blunt, that's enough to get you stopped, but not enough to arrest you. That's not a probable cause. I agree with Paul.*
7. **(Bozarth)** *So in the same case only later in March, he was detained and taken to jail, and I think the charges were later dismissed, were they not?*
8. **(Fleming)** *Yes.*
9. **(Souder)** *One of the ordinances that talks about false arrest, it says that you can get arrested for a crime without a warrant if there is probable cause and/or if the offense is committed in the officer's presence or within the officer's immediate knowledge. Well, it wasn't in the immediate knowledge of the arresting officers. Is there a differentiation between the fact that the undercover police person saw what was going on? Would that be considered immediate knowledge or not?*
10. **(Robertson)** *I'll answer that question. It looked like to him that he may have, that's what they may have been doing. He wasn't sure. So that's why he notified these other officers to go and check it out. But he couldn't say with certainty that's what he saw, that they were openly smoking marijuana.*
11. **(Souder)** *In the copy of the statement from him that is in parentheses or italicized, "it certainly looked to me like he did, he was pretty sure that he saw him smoking and saw him hiding it and calling the cops and so on.*
12. **(Fleming)** *He couldn't, because he was undercover, he couldn't go and confirm it. He was pretty sure, per his words.*
13. **(McDaniel)** *And what was the distance from the undercover officer?*
14. **(Fleming)** *I asked him that. He said he was far, but he couldn't be too detailed. He said he was about a block or so away. Close enough that he could see him.*

15. **(Bozarth)** *Is it your recommendation for sustaining charges, including undercover on Officer Strickland, who is the one who obviously got this process started?*
16. **(Fleming)** *Yes.*
17. **(Bozarth)** *So it would be those three officers you're recommending we sustain charges of false arrest?*
18. **(Fleming)** *Yes.*
19. **(Bozarth)** *In the second incident in March. I would support that recommendation, and I make a motion if it's okay with you, Chair, that we accept staff recommendation to support the charges sustained against officers Marr, Jackson, and Strickland.*
20. **(Brogdon)** *Before we vote, is the undercover officer really a part of the false arrest?*
21. **(Bozarth)** *That was my point, if he hadn't made what seemed to be perhaps, you know, a wrong identification. Let's just say that they weren't really smoking marijuana, they may have been smoking cigarettes. He's part of what got the thing started. Yes, I would think he would be just as culpable as the people who put the cuffs on them*
22. **(Brogdon)** *But the only reason why I would think it's a little bit different is because that officer said, "Okay, I think that there are people over there using drugs," and then he tells the arresting officers to go check on it. The arresting officers had to make the determination of whether to arrest him. There wasn't any indication that the undercover officer said, "Go arrest these guys. I'm sure it's marijuana." It seemed more like he was checking that they were going to confirm that it was marijuana. They couldn't confirm it and still arrested him. And I think this happens a lot in high-crime areas and with repeat offenders, people that are selling drugs, people that are smoking weed on the street. But if we don't have that evidence, we can't just put him in jail because he's done it in the past or he's had past run-ins. That's the only reason why I would have disagreed with including the undercover officer in this is, he didn't initiate the arrest. He more so pointed out a crime and I think we can differentiate and not just group all the officers in there, all involved. I think we should be more specific with the two that actually arrested him without probable cause.*
23. **(Hardnett)** *But Gino, if it wasn't for the undercover officer alerting them to what was going on with him, would they have even gone over there?*
24. **(Brogdon)** *I agree, but an alert is different from an order to arrest, and that, I guess that's the line I'm trying to draw, which is if my job is just to make folks aware that there are drugs going around and then calling the arresting officer, the arresting officer has a separate responsibility of determining if there is probable cause and then making an arrest, and I just don't want to group all the officers in there just because they're in the report somehow, you know.*
25. **(Bartels)** *I would just say that's a very good point. I'm looking through the summary again, which said, Officer Strickland, who was undercover, said that the main officer, the officers, the other officers went to the scene to investigate. They became the primary officers, and it was at their discretion if they wanted to make an arrest. I would agree with Gino. I think the other, the two officers that actually made the arrest, they should have verified that he actually was in possession of marijuana. Maybe it didn't even need reasonable suspicion to just voluntarily walk up and have an interaction, so yeah, I would feel the same way.*
26. **(McDaniel)** *Okay. Just some clarification, the undercover officer did interact with the complainant or take part in the arrest?*
27. **(Fleming)** *No, not at all.*
28. **(Bartels)** *I guess we probably need to vote separately on each officer.*
29. **(Bozarth)** *I did make a motion and the motion had no second. I guess we have to start over again. You're now in charge, right, Mr. Souder?*
30. **(Pitre)** *I do want to say that when he, when he made the complaint to the ACRB, he included the undercover officer. So how he found out, I'm not sure, but he knew the officer was included.*
31. **(Souder)** *But we could do it separately, though?*

32. **(Brogdon)** For the record, the Chairwoman is leaving, so let's do the vote separately. Let's finish, this vote. Was there a second?
33. **Gerald:** No.
34. **(Brogdon)** Does anybody second that vote? Are there other, any motions, relating to the other suggestion on how to move forward and vote on this?
35. **(McDaniel)** So what are we voting on?
36. **(Brogdon)** So we're voting on the.... Are you even taking over this? Who's in charge here?
37. **(Souder)** Sherry asked me to finish the case. She wants you to do the next case.
38. **(Smith)** Excuse me, but for the record, would you announce that you are presiding over the meeting?
39. **(Souder)** The chair has left for an appointment, and I am going to finish the case that we're on now, and she has asked Gino to finish the, the next case. Is that appropriate?
40. **(Smith)** His duties start in March.
41. **(Souder)** Okay. I'll finish the next two. This case and the next one. Do we have a motion on the false arrests for Officers Marr, Strickland and Jackson?

**Note for the record:** The **Chair** yielded the gavel to **Vice Chair Souder** at this time

**Vice Chair Souder** opened the floor for a motion. **Brogdon** moved to accept staff's recommendation to assign a finding of **Sustained** for **False Arrest** allegation against Officers Marr and Jackson. **Bartels** seconded. Hearing no further discussion, the vote was called and the motion was approved.

E. BOARD'S VOTE ON 2<sup>nd</sup> ALLEGATION OF FALSE ARREST ON OFFICER STRICKLAND

**Vice Chair Souder** opened the floor for a motion. **Bartels** moved to **not sustain** allegations of **False Arrest** against Officer Strickland. **Brogdon** seconded with one opposed vote (**Bozarth**). Hearing no further discussion, the vote was called and the motion as approved.

F. BOARD'S DISCIPLINE RECOMMENDATION ON OFFICER MARR

*Discussion and Comments...*

1. **(Souder)** On the sustained charge, we need to do the discipline. What category would that be under?
2. **(Fleming)** For Officer Marr?
3. **(Souder)** Yes.
4. **(Fleming)** For Officer Marr, it would be a category A.
5. **(Souder)** Do you have his disciplinary record?

**Officer Information and Professional Standards History:**

Officer Marr has been employed by Atlanta Police Department since October 6, 2011. Officer Marr has a total of seven (7) complaints within the past five years. The seven complaints were: 1) rude and discourteous and handcuffing someone too tightly; 2) accused of striking the front bumper of a squad car against a branch, causing damage to the squad car; 3) rude and searched a young man and his vehicle without consent doing a traffic stop; 4) failed to use safe driving techniques which resulted in a car accident; 5) backed up a squad car and struck a parked car; 6) rude, unprofessional, yelling during a traffic stop; and 7) profane language and degraded a complainant during a traffic stop.

*Discussion and Comments...*

1. **(Pitre)** I want to make sure, he's been with the Department for about 28 years, is that correct?
2. **(Fleming)** No, he started with the Department October 6, 2011.

3. *(Pitre) Okay, I'm sorry. And then the other one was 1989. Okay. That's Barr versus Marr?*
4. *(Fleming) Yeah, this is Marr, Officer Marr.*
5. *(Brogdon) Yeah, it was kind of confusing.*
6. *(Souder) He only had one sustained?*
7. *(Fleming) One sustained. That was a vehicle accident. Yes.*
8. *(Bartels) I mean the disciplinary matrix.*
9. *(Fleming) A category A.*
10. *(Bartels) Category A, which is strictly an oral reprimand.*
11. *(Fleming) Yes, that's correct. Plus training.*
12. *(Souder) Training or counsel, yes. Is there a motion on what the discipline should be for this officer?*
13. *(Brogdon) I don't know about a motion, but I think it should definitely include written. I think it's a little bit more than an oral admonishment. You violated someone's kind of basic rights like this, even if they're a repeat offender. I don't know about retraining. It's not a problem. He may need training driving and cussing out folks at traffic stops. This isn't like a repeated problem. I do think there should be something, at least a letter in the file that says, we said he needed a written admonishment.*
14. *(Paul) I did have a question, Mr. Fleming. Did, you get a sense when you talked to the officers why they decided to arrest him when there was no marijuana? Did they have any explanation for the absence of any marijuana?*
15. *(Fleming) No, not at all.*
16. *(Paul) I doubt that that's a training issue. I mean, you sit somebody down and say, "You can't arrest somebody for drugs unless they have drugs." You know, I guess I'm just kind of throwing this out there. I think we can't lose sight when somebody is arrested without justification. What a traumatic thing that is. It's always kind of bothered me that there isn't some kind of suspension, even a short suspension for that because if somebody is arrested and booked into jail, they got to post bond. This has always kind of bothered me that there isn't some suspension in there, even if just for a brief period.*
17. *(Souder) Well, I believe there could be. The discipline matrix is a guide. We could, recommend whatever, if somebody makes a motion.*

**Vice Chair Souder** opened the floor for a motion. **Brogdon** moved to recommend that Officer Marr receive a written admonishment for **False Arrest**. **McDaniel** seconded with one opposed (**Bartels**). Hearing no further discussion, the vote was called and the motion as approved.

#### G. BOARD'S DISCIPLINE RECOMMENDATION ON OFFICER JACKSON

##### **Officer Information and Professional Standards History:**

Officer Jackson has been employed with APD since May 9, 2013. According to records, Officer Jackson has three complaints that have been filed against him since employed with APD. The three complaints were; Officer Jackson had outside employment (sustained); the complainant alleged that they were falsely arrested and he was left in the transport wagon for four to five hours; and the last one was that the complainant alleged that the officer used profane language and threatened her during a traffic stop.

##### *Discussion and Comments...*

1. *(Souder) It will still be a Category A.*
2. *(Fleming) Yes.*
3. *(Souder) With the same discipline guidelines of oral admonishment or written reprimand and training.*

4. *(Bartels) I think the discipline for the second officer should be the same as the first. There's no distinction in behavior. So I will make a motion that we apply the same discipline to this officer as we did the first.*

**Bozarth** moved to recommend that Officer Jackson receive a written admonishment for **False Arrest**. **Brogdon** seconded with one opposed (**Bartels**). Hearing no further discussion, the vote was called and the motion as approved.

## ACRB CASE NO 16-142

### A. ALLEGATION SUMMARY

The Complainants alleged that on August 18, 2016, Atlanta Police Officers Kristina Bogle and Megan Norris: (1) unlawfully stopped and detained them, (2) was verbally abusive towards them and (3) Officer Bogle engaged in unnecessary excessive force when she grabbed one of the Complainant's arm, pushed him to the ground and pointed her firearm at his head.

### B. STAFF RECOMMENDATION

#### **Allegation of False Imprisonment**

ACRB Staff recommends that the allegation of **False Imprisonment** against Officers Bogle and Norris be assigned a finding of **Sustained** (*the investigation established that there is sufficient evidence that the officers committed the allege acts of misconduct*).

#### **Allegation of Excessive Force**

ACRB Staff recommends that the allegation of **Excessive Force** against Officer Bogle be assigned a finding of **Sustained** (*the investigation established that there is sufficient evidence that the officer committed the allege acts of misconduct*).

#### **Allegation of Abusive Language**

ACRB Staff recommends that the allegation of **Abusive Language** against Officers Bogle and Norris be assigned a finding of **Not Sustained** (*the investigation established that there is insufficient evidence that the officer committed the allege acts of misconduct*).

#### *Discussion and Comments First Allegation: False Imprisonment*

1. *(Bozarth) Ms. Robertson, you were able to determine why, how these civil officers got summoned to this parking lot?*
2. *(Robertson) The female complainant said that the landlord, Mr. Slade, was in the parking lot. So she believes that he's the one that flagged the officers down and, and told them that information.*
3. *(Bozarth) They (police) happened to be coming by and he...*
4. *(Robertson) Because the precinct is right there. It's right across the street.*
5. *(McDaniel) And there was some evidence that the dispatcher received a call, right?*
6. *(Robertson) No, none at all.*
7. *(Bozarth) So what seems to have happened is they had taken the word of the landlord that these people were up to no good, when in fact they were, had the right to have their furniture and so forth in the truck. And he must have made up a lie that the truck was stolen?*
8. *(Robertson) Yes.*

9. (**Bozarth**) *And he lied. It would seem the testimony of the officer that was at the precinct when it was called in, as well as, the sergeant who was intermediate would confirm the fact that both of these officers acted improperly here. One of them, by the way, has left the force. Do you have any way of knowing if her resignation in September was tied to this complaint at all?*
10. (**Robertson**) *No, I found out from the sergeant that she accepted another position in Customs or something like that ...but Officer Norris was not the one who pulled the gun, Bogle was the one who, you know who pulled the gun and all.*
11. (**Bartels**) *Do we, know what the status with OPS is with this complaint against Officer Bogle?*
12. (**Robertson**) *I'm assuming it's still pending.*
13. (**Reid**) *Yeah, my understanding is it is still under investigation.*

C. BOARD VOTES ON FIRST ALLEGATION OF FALSE IMPRISONMENT

**Bartels** moved to accept staff's recommendation to **Sustain** the allegation of False Imprisonment against both Officer Norris and Officer Bogle. **Pitre** seconded. Hearing no further discussion, the vote was called and the motion was approved unanimously.

D. BOARD VOTES ON SECOND ALLEGATION OF EXCESSIVE FORCE

**Brogdon** moved to accept staff's recommendation to **Sustain** the allegation of Excessive Force against Officer Bogle. **Hardnett** seconded. Hearing no further discussion, the vote was called and the motion was approved unanimously.

E. BOARD VOTES ON THIRD ALLEGATION OF ABUSIVE LANGUAGE

**Bartels** moved to accept staff's recommendation to **Not Sustain** the allegation of Abusive Language against Officer Bogle. **Brogdon** seconded. Hearing no further discussion, the vote was called and the motion was approved unanimously.

F. BOARD VOTES ON FOURTH ISSUE RAISED: VIOLATION OF DEPARTMENT OPERATING STANDARDS

It should be noted that these issues were not raised by the Female Complainant or the Male Complainant, but was determined through the investigation:

- **First Issue Regarding Department Standard Operating Procedures:** Officers Bogle and Norris failed to document the incident on their daily activity reports and to notify dispatch of the stop. The ACRB staff recommends the allegation of Violation of Department Operating Standards against Officers Kristina Bogle and Megan Norris be assigned a finding of **Sustained**, that the investigation established that there is sufficient evidence that the officers committed the alleged acts of misconduct.

**McDaniel** moved to accept staff's recommendation to **Sustain** the allegation of Violation of Department Operating Standards against Officer Norris and Officer Bogle. **Bartels** seconded. Hearing no further discussion, the vote was called and the motion was approved unanimously.

- **Second Issue Regarding Department Standard Operating Procedures:** The second part of the report issued was that Officer Norris was the senior officer on the scene during this encounter, joining APD on December 13, 2011, with Officer Bogle joining on January 15, 2015. The act of Officer Bogle unholstering and pointing her firearm at Male Complainant and forcing him to get on the ground was inappropriate and unwarranted. As the senior officer, Officer Norris should have taken charge of the situation, thereby, she is in violation of APD policies. Staff recommends that the allegation of Violation of Department Standard Operating Procedures against Officer Megan Norris be assigned a finding of **Sustained**. The investigation established there was sufficient evidence that the officer committed the alleged acts of misconduct.

**Brogdon** moved to accept staff's recommendation to **Sustain** the allegation of Violation of Department Operating Standards against Officer Norris. **Bartels** seconded. Hearing no further discussion, the vote was called and the motion was approved unanimously

G. ADDITIONAL RECOMMENDATION REGARDING OFFICER BOGLE'S STATEMENT OF TRUTHFULNESS

Upon review of Officer Bogle's ACRB statement, it shows Officer Bogle's explanation as to why they stopped and detained the Complainants is not substantiated and supported by the evidence, which seems to suggest that Officer Bogle was being untruthful. Staff is asking the Board to recommend to the APD that they review Officer Bogle's statement for truthfulness and take an appropriate action against her that's in accordance with the department's disciplinary matrix.

**Bozarth** moved to include staff's additional recommendation to review Office Bogle's statement for truthfulness. **Pitre** seconded. Hearing no further discussion, the vote was called and the motion was approved unanimously.

H. BOARD VOTES ON DISCIPLINE RECOMMENDATIONS

**Robertson** provides officer disciplinary history:

Officer Bogle has been on the force since January 15, 2015; however, she doesn't have any disciplinary history.

Officer Norris has been on the force since 2011, and she resigned as of September 13, 2016. She has had four complaints lodged against her. One of them was a vehicle accident that was Sustained. She had another Sustained complaint where she received an oral admonishment for failing to submit reports. She was supposed to file a completed report, and she didn't do it.

**OFFICER BOGLE - Sustained Complaints:** False Imprisonment, Excessive Force, and Violation of Department Standard Operation Procedures (SOPs)

*(It should be noted that the allegations sustained against Officer Bogle include categories A, C & D (D-Unauthorized Force). However, since Officer Boyle does not have a disciplinary history, the highest severity level would be Category C. The discipline is four to fifteen days or a demotion.)*

**Bartels** moved to recommend seven (7) days suspension, as well as additional training in use of force and operating procedures. **Bozarth** seconded. Hearing no further discussion, the motion was approved with two people (**McDaniel & Pitre**) opposing.

**OFFICER NORRIS - Sustained Complaints:** False Imprisonment and Violation of Department Standard Operation Procedures (SOPs)

*(Regarding the violation of the department operating procedures (not submitting a report and/or documenting the incident on the activity report), the discipline can be assessed as a Category B which comes with one to three-day suspension. Although Officer Norris is no longer on the force, it is the practice of the board to proceed with recommending discipline to include in Officer Norris' record and to be consistent in the event the officer returned. It is also important to note that according to APD visiting officer, if an officer leaves with an open investigation, they will not be eligible for rehire; therefore, unable to return to the Atlanta Police Department.)*

**Brogdon** moved to recommend for training regarding policy, situation de-escalation, and supervision of other officers and a three-day suspension. **McDaniel** seconded. Hearing no further discussion, the motion was approved unanimously.

## **OLD BUSINESS**

As a follow-up to questions posed at the last meeting regarding what the new amendments to the ACRB Ordinance means in terms of continued service on the board for members who have already served two consecutive terms, **Reid** stated “I received a response back from our attorney regarding the two questions you asked. Regarding the first question...under the new ordinance, if you are, or if you would have been in jeopardy of leaving the Board because of the new ordinance, you can continue to stay on through your term. So those who are in their second term or third term, or, have been there 18 months of a full, or a partial term, you still can sit on the board, you just won’t be there very long. The second question was defining ‘public office.’ There’s no real definition for the term ‘public office’ but I think it is safe to say that a public office is an elected official, or anyone holding office with public responsibility.

One last comment, regarding board training, Ms. McDaniel did her ride-along recently, so that’s good.

## **NEW BUSINESS**

**None**

## **PUBLIC COMMENTS:**

*No Public Comments*

## **CLOSING COMMENTS:**

Outgoing **Vice Chair Gerald Souder**: “I just want to say that I have really appreciated the opportunity to serve on the Board, and I believe it’s better to serve and do a great job and then get off and let somebody else come on the Board, so that we can have new people and get more citizens involved. I think that is appropriate, but I do appreciate working with everybody, and I think the Board that we have today is great. I mean, we do a great job, and I think it’s going to be important to continue doing what we do. I want to thank you for your support while I’ve been here.”

## **ADJOURNMENT**

No further business, by show of consensus, the meeting adjourned at 6:59 P.M.

ACRB Minutes for February 9, 2017 were approved: March 9, 2017  
*Paul Bartels, Board Secretary*

*Transcribed: LG*