

Approved

February 9, 2017



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

January 12, 2017
Tower, 3rd Floor Auditorium
55 Trinity Avenue, S.W.
Atlanta, Georgia 30303
5:30 p.m.

The January 2017 meeting was called to order by **Vice Chair Souder** at 5:35 p.m., pending the arrival of the Chair.

Special Note: The meeting started thirty minutes early to accommodate training for the board.

AGENDA

ROLL CALL

(The ACRB has thirteen members)

ACTIVE MEMBERS PRESENT

SHERRY WILLIAMS (<i>Chair/Williams</i>) (<i>Arrival 6:01 p.m.</i>)	CECILIA HOUSTON-TORRENCE (<i>Torrence</i>)
PAUL BARTELS (<i>Secretary/Bartels</i>)	WILLIAM HARRISON (<i>Harrison</i>) (<i>Arrival 6:06pm</i>)
BILL BOZARTH (<i>Bozarth</i>)	GINO BROGDON (<i>Brogdon</i>) (<i>Arrival 5:43 p.m.</i>)
GERALD SOUDER (<i>Vice Chair/Souder</i>)	HAROLD HARDNETT (<i>Hardnett</i>) (<i>Arrival 5:49</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 8 months*)

City Council President (*7 months*)

Coalition for the Peoples' Agenda (*9 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, DECEMBER, 2016

Vice Chair Souder opened the floor for discussion and corrections to the December 2016 minutes.

*Noted Correction: **Bartels** corrected page 17, line #1 under “Discussion.” He corrected the statement to read, “the only arrests that can be restricted are cases which were dismissed.”*

Bartels moved to adopt the minutes as corrected. **Houston-Torrence** seconded. Hearing no discussion, the motion was approved.

Special Note: It should be noted that newly appointed Atlanta Police Chief Erika Shields was scheduled to present at this time; however, by a show of consensus, **Vice Chair Souder** changed the order of the agenda to accommodate the presentation later into the agenda pending her arrival.

BOARD TRAINING

Ordinances & Bylaws presented by Attorney Virginia Robinson, Law Department

Attorney Robinson’s presentation before the ACRB consisted of a review of Section 2-2201 through Section 2-2213 of the City of Atlanta Code of Ordinances (*handouts provided*) establishing the ACRB. Below are highlight specifics from her presentation:

- The ACRB is established to provide a permanent agency through which complaints are lodged by members of the public.
- The ACRB has the jurisdiction to investigate the following: abuse of authority; abusive language; appropriate action required; conduct; discrimination; discriminatory reference; failing to provide identification; false arrest; false imprisonment; harassment; retaliation; use of excessive force; serious bodily injury; death; and violation of departmental SOPs.
- The Board may also operate a mediation program and mediate complaints.
- Complaints must be filed in writing and under oath within 180 days following the date of the alleged infraction.
- No member of the ACRB shall hold any other public office or be employed by the City of Atlanta.
- The Board shall have the power to conduct investigations and hold public hearings.
- The Board may exercise subpoena power by majority vote and compel access to or production of such materials or the appearance of such person as may be relevant to investigation or study of matters within the Board’s jurisdiction.
- All hearings shall be open to the public, except when executive sessions are required in accordance with Georgia Open Meetings Act.
- Each Board member shall file a quarterly report with the Board member’s appointing entity.

Discussion and Comments...

1. (**Bozarth**) *Those of us who are already in our second terms, was there when this ordinance was updated, are we obliged to step down in the current term or has that been interpreted?*
2. (**Robinson**) *I believe that would be the intent of the ordinance. Once the two terms are up, the seat will need to be filled.*
3. (**Bartels**) *If a member was appointed before the current ordinance, does the rule about a partial term of more than 18 months count for a full term, will that still apply?*
4. (**Robinson**) *I believe so. I don’t think that there is any grandfather clause that is built into the ordinance, as it was adopted in March. I can double check on that one for you.*
5. (**Houston-Torrence**) *Can you let me know the definition of “public office”?*
6. (**Robinson**) *I don’t believe that it is a defined term in the ordinance; but you can’t be a city employee, cannot be a member of the city council... I will look to see how broad that term is. I will get back with you.*

7. **(Bozarth)** Can we hear from our Director on how that is being monitored (Duties of the Board members)?
8. **(Reid)** If you are letting us know that you have been submitting your reports, we are tracking them. Which, honestly, the majority of you have not been letting us know.
9. **(Bozarth)** What is the consequence for either not doing it or not letting you know?
10. **(Reid)** When we talked about a member of the board may be recommended for removal, this is based on the following: incompetence; neglect of duty; misconduct; malfeasance; or failure to participate in training requirements. I am going to say that will fall under neglect of duty because you need to be contacting your appointing entities. We have talked about this time and time again that it is important for your appointment entities to have a relationship with you and the board. So that when you rotate off, they know what's happening and they can find someone suitable, so that we can try to avoid these long delays in our appointments. We are going to have to continue to push for that.
11. **(Bozarth)** I guess that I would be more comfortable with this as a requirement if there was a fairly specific procedure that perhaps you initiated a report that said that someone is in default of their responsibility. Coming from the Chair, I assume the board will be compelled to consider what actions to take.
12. **(Reid)** That could work. If it came to a point where we decided that we need to consider moving someone off the board, a report would be generated.
13. **(Bozarth)** It's up to you to let the board know if someone is at default. We have no way of monitoring those ourselves. Then, once advised, we have the responsibility to consider what action.
14. **(Robinson)** And the ordinance does clarify just that, the Executive Director will maintain a copy of all board members reports that they file with their appointing agency.

Special Note: For the record, the Vice-Chair noted the arrival of Board member Gino Brogdon.

15. **(Bozarth)** Have we had to use subpoena power anytime in the past that you are aware of?
16. **(Robertson)** Not for an officer. We did have to get some records from autopsy.
17. **(Bozarth)** So it is very unusual.
18. **(Souder)** On the one where you said that the chief of police needs to respond or reject...I thought part of the ordinance also said that the need to give a reason why they rejected. That is one of the issues that we had before.
19. **(Robinson)** Yes, they need to respond with a reason and that is in the ordinance.
20. **(Brogdon)** Is it typical for us to receive information from the Chief of APD or to know that the punishing officer has been admonished already before we make a recommendation for punishment?
21. **(Robinson)** I would assume that information would be contained in the investigative report.
22. **(Bartels)** They do advise us if they have been disciplined.
23. **(Brogdon)** I know that we've been advised before; I just want to make sure that we know every time.
24. **(Reid)** That is usually in the disciplinary report.
25. **(Bartels)** If I heard correctly, you said that you are going to do an additional training at some point on open records?
26. **(Robinson)** Yes. Kristen Denius, who is also in the Law Department in Open Records/Open Meetings Act; I believe that it is set up for next month that she will be here.
27. **(Bartels)** Especially for those folks who have not been on the board long, might help to go over open meeting requirements.
28. **(Robinson)** Lee **(Reid)** and the staff have my contact information if you need to get in contact with me. I represent the board, so I am happy to help out in any capacity.

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**:

- **APD Ride-Along and APD BWC Training**
Director Reid thanked the board members who participated in the APD Ride-Along Program and Body Worn Camera training. If you have attended the training, please contact the office to record your attendance for payment.

FYI: Zones 1 and 6 APD Body Worn Camera training began January 9th and continues through January 13th.

- **Chief Shields Attendance**

APD Chief Shields will meet with the board during the January board meeting. Please have questions prepared to ask the chief. We want to show that the board is engaged and will be paying attention to what the APD does under her leadership.

- **Board Elections**

Board elections will occur during the February board meeting. The board will be electing the Chair, Vice Chair, and Secretary positions. **Reid** said, “Earlier, Bill (Bozarth) brought up the point about contacting your appointing entity, and how all of that will be monitored...well this is where a lot of things come into play. You can’t be Board Chair and not talk to the group that appointed you. We need people in office who are examples and doing everything that they are supposed to do. We will provide the elections guide. The guide will provide information that you should consider when determining the board’s leadership of your desire to run for a position.”

- **Early Meeting Time**

January and February meetings will begin at 5:30 p.m. to accommodate board training. There will be a series of trainings with for the board members throughout the year. Please be flexible.

- **Reports to Appointment Entities**

Please remember to make reports to your appointing entities and communicate to the board that you have made your reports.

- **Martin Luther King March & Community Forums**

The ACRB will participate in the January 16th MLK March. “If you have not participated in the march, please do so. The office will send additional information. The march is one of those outreach activities that you can count as one of the four activities that you are required to participate in each 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.

- **“Nobody Needs to Know” Campaign**

On January 9th, actress Jasmine Guy and I did an interview with the Keisha Lancelin on CW 69. We discussed the ACRB’s ability to accept anonymous complaints.

- **Community Outreach – Rashad Richey Show**

On December 22nd, I appeared on WAOK’s Rashad Richey Show to discuss the ACRB and changes to the ordinance.

Discussion and Comments...

1. **(McDaniel)** *If we are participating in the MLK event...would that be considered community outreach also?*
2. **(Reid)** *No. I know that a lot of people are involved in different things, but this requirement is specifically what we do for ACRB.*
3. **(Hardnett)** *There is this police commander in Zone 4 and he wants me to do a ride along with him. Can I do my ride along with him?*
4. **(Reid)** *Yes.*

5. *(Smith) But if you are going to do that, make sure we get some kind of verification of the ride-along. We need to verify training and to process payment.*
6. *(Reid) February board meeting will be held here in City Hall, but we haven't come up with the schedule yet for the meeting that we are having out in the communities for 2017. Until further notice, the meetings will be held here at City Hall. I was reminded by staff that every year, we develop a year-end report consisting of board attendance and training attendance. A copy of that report will be distributed at the next board meeting so that board members will know who is doing what, when and how often. We can also include who is reporting and who is not reporting to their entities.*

Note for the record: *Vice Chair Souder* recognized the arrival of *Chair Williams*. The *Vice Chair* yielded the gavel to *Chair Williams* at this time.

INTAKE REPORT FOR DECEMBER 2016

Investigation Manager *Robertson* reported that for the month of December 2016, the ACRB received thirteen (13) complaints.

A. COMPLAINT BREAKDOWN AND STAFF RECOMMENDATIONS:

The ACRB staff is seeking approval to possibly dismiss five (5) of the thirteen (13) complaints. Two 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. 16-174 – Harassment
The Complainant alleges that he being followed and harassed by APD. The Complainant could not provide any specific facts, details or identifying information that could assist with an investigation. *Recommend dismissal for lack of information.*
2. ACRB Case No. 16-175 – Filed a False Report
The Complainant alleges that on November 16, 2016, he was involved in an accident with another motorist and the driver filed a false report indicating that he fled the scene. *Recommend dismissal for lack of jurisdiction.*
3. ACRB Case No. 16-179 – Harassment
The Complainant alleges that she is being harassed by APD through her email, Facebook and phone.

Awaiting the Complainant's signed complaint. If the signed complaint is received within the next few weeks and the complaint has merit, then recommend investigation as a harassment complaint. If signed complaint is not received, then recommend dismissal.
4. ACRB Case No. 16-180 – False Arrest
The Complainant alleges that he was falsely arrested by APD for allegedly spitting on someone. Preliminary investigation revealed that the Complainant plead guilty to the charges and was sentenced to 30 days as penalty. *Recommend dismissal for lack of merit.*
5. ACRB Case No. 16-183 – False Arrest
Ms. Houston, on behalf of her brother, The Complainant, who is incarcerated at the Fulton County Jail, alleges that he was falsely arrested. *Currently, awaiting a signed complaint and if the signed complaint is received within the next few weeks, then recommend investigation as possibly a false arrest complaint which will be dependent upon the outcome of the Complainant's criminal case. If case is still pending adjudication, then recommend suspension*

of the investigation pending its outcome. If signed complaint is not received, then recommend dismissal.

Investigation recommendations:

The following Eight (8) cases are recommended for investigation:

1. ACRB Case No. 16-172 – Excessive Force
The Complainant alleges that on November 27, 2016, he was physically assaulted by an APD officer during a traffic stop.
Therefore, recommend investigation as an excessive force complaint.
2. ACRB Case No. 16-173 – Inappropriate Behavior
The Complainant alleges that on December 5, 2016, an APD officer hit the driver's side window of his vehicle with a flashlight.
Therefore, recommend investigation as a conduct complaint.
3. ACRB Case No. 16-176 – Failure to Complete a Report
The Complainant alleges that his young children were left alone at home by their mother and the responding APD officer failed to do a report.
Recommend investigation as an appropriate action complaint.
4. ACRB Case No. 16-177 – Inadequate Service
The Complainant alleges that on August 25, 2016, an APD officer failed to complete a report and take his statement pertaining to an incident that occurred on August 25, 2016.
Recommend investigation as an appropriate action required complaint.
5. ACRB Case No. 16-178 – Retaliation
The Complainant alleges that a correction officer at the Atlanta Detention Center had him placed in isolation after he reported that an inmate had a knife.
Recommend investigation as a retaliation complaint.
6. ACRB Case No. 16-181 – False Imprisonment & Abusive Language
The Complainant alleges that on December 21, 2016, an APD officer unlawfully stopped and detained her. She further alleges that the officer called her a "dumb bitch."
Therefore, recommend investigation as a false imprisonment and abusive language complaint.
7. ACRB Case No. 16-182 – Abuse & Inadequate Services
The Complainant alleges that in October 2016, an APD officer, who responded to an incident at a Sun Trust Bank, was abusive and did not act within APD protocol.
Recommend investigation as an appropriate action required and possibly a conduct complaint (will be determined when further information is obtained from the Complainant).
8. ACRB Case No. 16-184 – False Arrest, False Imprisonment & Excessive Force & Harassment
The Complainant alleges that on November 5, 2016, an APD officer unlawfully detained and arrested him. He further alleges that the officer threatened to tase him and is continually showing up at his place of employment harassing him.
Recommend investigation as a false arrest, false imprisonment, excessive force & harassment complaint.

B. RECONSIDERATION OF COMPLAINTS

1. ACRB Case No. 16-105 – Inappropriate Conduct

In July 2016, The Complainant filed an appropriate action required complaint against APD officers pertaining to an incident that occurred on July 27, 2016.

Therefore, recommend for dismissal for lack of cooperation.

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

In November 2015, The Complainant filed a conduct complaint against APD officers pertaining to an incident that occurred on October 13, 2016. ACRB's numerous attempts to obtain a statement from The Complainant have been unsuccessful. **Therefore, recommend for dismissal for lack of cooperation.**

C. BOARD VOTES ON INTAKE REPORT

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

COMPLAINTS REVIEW:

ACRB CASE NO 16-015, JERMAINE COOPER

A. ALLEGATION SUMMARY

The Complainant alleged that he was falsely arrested on September 1, 2015 because Atlanta Police Investigator Brandon Robinson obtained a warrant for his arrest by fabricating Jeremiah Mathis' account of a shooting that occurred on July 24, 2015.

B. STAFF RECOMMENDATION

The ACRB staff recommends that the allegation of **False Arrest** against Inv. Brandon Robinson be assigned a finding of **Not Sustained** (*the investigation established that there is insufficient evidence that the officer committed the alleged act of misconduct*).

Discussion and Comments...

1. (*Bartels*) *Mr. Fleming, did you determine why the District Attorney's Office nolle prosequi (unwilling to pursue) that case? Is it that they couldn't find any interviews?*
2. (*Fleming*) *No. On page six...the DA wanted the ACRB case to be settled before they move forward with it.*
3. (*Bozarth*) *Nolle prose takes it off the docket, doesn't it?*
4. (*Bartels*) *It means that they will have to indict it again before they can bring it forward. Is that normally done?*
5. (*Fleming*) *I never heard of it.*
6. (*Bartels*) *I never heard of it...because they are waiting for our report. That's very unusual.*
7. (*Brogdon*) *Is there something different about this case as to why it would depend upon our determination?*
8. (*Fleming*) *She didn't go into details. She just said that they wanted this case to be settled before they move forward with their criminal investigation.*
9. (*Brogdon*) *Maybe it comes down to the officer's credibility.*
10. (*Bartels*) *There are several unusual aspects about this case. The other one is that, according to the report, all of the recordings of the interviews cannot be located; with six different individuals. I think that's quite unusual.*
11. (*Hardnett*) *Does the officer have any prior complaints against him?*
12. (*Fleming*) *Yes he did. He has three of them actually.*
13. (*Robertson*) *I think that you may also want to consider the fact that APD did turn over information, like the recordings and the interviews. The District Attorney's office, however, cannot locate those things. So that could also be the reason why they made the decision not to move forward until ACRB settled the case.*

14. (**Brogdon**) *So the police didn't lose it?*
15. (**Robertson**) *No.*

Brogdon moved to adopt staff's recommendation to assign a finding of **not sustain** for False Arrest against Investigator Brandon Robinson. **Hardnett** seconded. Hearing no further discussion, the motion was approved.

ACRB CASE NO 16-032, RENO DANIEL

A. ALLEGATION SUMMARY

The Complainant alleges that on February 14, 2016, Officer Alexander Thorpe and Nicholas Moore stopped and detained him unlawfully, arrested him without cause and used abusive language toward him.

The Complainant also alleged that Officer Thorpe threatened to tase him when he offered no resistance and told him he was going to "get him some time."

B. STAFF RECOMMENDATION

ACRB staff recommends that the allegation of **False Imprisonment** against Officers Alexander Thorpe and Nicholas Moore be assigned a finding of **Exonerated** (*the allegation act occurred, but was justified, legal or properly within department policy*).

Discussion and Comments...

1. (**Houston-Torrence**) *I found it hard to believe that the officer didn't say that they identified themselves as police officer and I think that's kind of what his tendency was that he didn't know. That's why he ran because he didn't know they were police officers.*
2. (**Brogdon**) *It was daylight. I know that it's a dark blue uniform. I think that if they see him rolling a blunt or using drugs, whatever you want to call it, which is more than enough of reasonable suspicion to go in and initiate, at least a talk. Once you run, all bets are off. In terms of him resisting, that's hard to say, because you have one person saying, he was not resisting, and you have the officer saying he was. The officer was injured in this. Enough to go to the hospital. Maybe it's really a clumsy officer, but if we are looking at the ponderous of the evidence as a standard, more likely than not. More likely than not, he was resisting the officer.*
3. (**Bozarth**) *Both of the officers that have been brought up on this complaint are no longer with the force. I had a discussion with Robin (**Lolar**) to see if she knew any connections between the resignations in this case. There was no connection. Again, this is what we seen way too often, police are leaving the force, whether they have anything to do with our cases or not. Both of these officers were relatively new to the department. They were 23 and 24 years old respectively. I don't think that bears on the case.*
4. (**Bartels**) *Do we have any information as to why either officer resigned?*
5. (**Lolar**) *No. Just that they resigned on their own.*
6. (**Bartels**) *There are a couple of discrepancies. I am not sure how they factor into how I will decide, but it looks like the initial call Officer Thorpe dispatched... there was a suspicious person. They didn't mention anything about somebody rolling a blunt. And the other discrepancy is Mr. Daniel indicated in the statement that they took close to \$2,500 from his person and it looks like it was about \$1,868. That's a lot of money to me to have a discrepancy.*
7. (**Bozarth**) *The way that I interpreted the statement, the \$2500 is just some approximation of a lot of money. The fact that he had a lot of cash on him, lends credence to the reasoning the officer might have been okay in trying to detain him. I guess the accusation is harassment, false imprisonment, and abusive language. We don't have any witness one way or the other on abusive language. I don't think that we can sustain that. The only one that we might be able to sustain will be the false imprisonment if we think that he didn't have a reasonable cause to do that. I don't see a reason to assume he didn't have reasonable cause.*

8. *(Bartels)* I think on the false imprisonment count, the critical question is, whether, when they made initial contact, there was reasonable suspicion did Mr. Daniel engage in criminal activities? He did plead no contest to the drug; I believe it was the possession of with intent, possession of cocaine, obstruction and abandonment. He pleaded no contest. Basically, that means that it is not an admission of all the facts, but it's not disputing it. Kind of in limbo.
9. *(Bozarth)* It is also interesting that in some of the cases that we see, he was not sentenced for any time for whatever violation they thought that he made.
10. *(Williams)* I think that this case is another example of how body worn cameras would have been very helpful. I am sure that all of us will look forward to all of them being rolled out in all the zones across City so that we can actually see and hear more; in some cases, actually what is going on. Based on the information that we have, there was some pretty interesting things going on as he was running through the field and both of them went in two different directions and picked up substantial evidences that could explain the large amount of money that he had on his person.
11. *(Hardnett)* The officer said that he was in a known drug area. That's not a reason by the police to say that he was a suspicious character in the first place.

C. BOARD'S VOTE ON 1ST ALLEGATION OF FALSE IMPRISONMENT ON OFFICERS THORPE AND MOORE

Chair Williams opened the floor for a motion. *Houston-Torrence* moved to accept staff's recommendation to assign a finding of **exonerated** for **False Imprisonment** allegation against Officers Thorpe and Moore. *Brogdon* seconded. Hearing no further discussion, the vote was called and the motion was approved with one opposing vote (*Bartels*).

Discussion and Comments...

1. *(Bartels)* If I can just explain. I know that we discussed this quite a bit. I would lean towards not sustain as opposed to exonerated. I think that it doesn't rise to the level of exonerated.
2. *(Souder)* Was that for both officers?
3. *(Williams)* This is for both officers.
4. *(Brogdon)* I think that it is a really good point that Paul brought up. Because it really is a dispute as to what happened. We don't have enough information. To exonerate him...it would be like...we only have a one sided story. Not sustain will be like...two different sides. I do think after Paul explained it, I do think that not sustained makes more sense.
5. *(Bartels)* If there were other evidence that he was rolling a joint... a body worn camera clearly showing him doing that, then it would be exonerated, but we have one person's word against the other. We can't say that the officer committed that violation by the ponderous of the evidence.
6. *(Souder)* Robin (*Lolar*) why did you recommend exonerated?
7. *(Lolar)* Based on the fact that he saw the officer; the officer saw him; and they suspected that he was rolling a blunt. Upon approach, he fled; they pursued after him because he fled; they already suspected him of a crime. As they were pursuing him, he's discarding suspecting items from his person. They continued with the pursuit because apparently they felt that those suspecting items were probably contrabands.
8. *(Bozarth)* I think that she makes a good point and I would stick with exonerated.
9. *(Williams)* We have already approved it.

D. BOARD'S VOTE ON 2ND ALLEGATION OF ABUSIVE LANGUAGE ON OFFICERS THORPE AND MOORE

Chair Williams opened the floor for a motion. *Bozarth* moved to accept staff's recommendation to assign a finding of **not sustained** for **Abusive Language** allegation against Officers Thorpe and Moore. *Souder* seconded. Hearing no further discussion, the vote was called and the motion was approved.

E. BOARD'S VOTE ON 3RD ALLEGATION OF HARASSMENT ON OFFICERS THORPE AND MOORE

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 Officers Thorpe and Moore. *Pitre* seconded. Hearing no further discussion, the vote was called and the motion was approved.

ACRB CASE NO 16-088, ALEXANDRIA DICKENS

A. ALLEGATION SUMMARY

The Complainant alleged that on June 11, 2016, Atlanta Police Officer Matthew Harris unlawfully stopped and detained her. She also alleged that Officer Harris did not loosen the handcuffs when she complained that they were hurting her. Ms. Dickens further alleged that Officer Harris searched her and her vehicle without cause.

Discussion and Comments...

1. (*Houston-Torrence*) *Is it standard operating procedure when you stop someone to handcuff them while they are waiting for someone to arrive? He was waiting for a female officer to search her person. Is that correct.*
2. (*Bozarth*) *There are two reasons to handcuff her; one is to detain her while he searched the car; and the second is to keep her waiting until a female officer arrived to conduct a pat-down.*
3. (*Houston-Torrence*) *Is that standard to handcuff them while that is taking place?*
4. (*Bartels*) *Just to clarify that. Under some circumstances, legally they can do that. Particularly, if they think there's a risk that the person is trying to get away while they are being legally detained or if they acting in such a way that they are a threat to the officer's safety. It depends on the circumstances.*
5. (*McDaniel*) *For my understanding, he searched the car and there was nothing there. He should have let her go. However, when he kept her to be searched, then that was somewhat breaking the code.*
6. (*Bartels*) *One of them is false arrest. Correct?*
7. (*Lolar*) *False imprisonment.*
8. (*Bartels*) *My opinion is pretty much what the court says, if somebody is handcuff and put in the back of a patrol car, especially if it is more than a few minutes, they are under arrest. Even if they are not technically told that they are under arrest.*
9. (*McDaniel*) *So once he searched the car, he should have let her go?*
10. (*Bozarth*) *That is what the investigator said and I tend to agree with that.*
11. (*Bartels*) *We don't want to mix the issues up because there are two false imprisonment allegations, excessive force and appropriate action. The first issue is did they have reasonable suspicion to do the initial traffic stop and the second question is; was there reasonable suspicion to prolong the detention in order to search the car?*
12. (*Souder*) *The reason for stopping was because of the smell of marijuana.*
13. (*Houston-Torrence*) *It was not stopping at a stop sign.*
14. (*Bartels*) *The first issue we need to decide is whether the initial traffic stop was justified. I would tend to agree with staff's recommendation on that first issue. That's an example of exonerated.*

B. STAFF RECOMMENDATION

1st Allegation – False Imprisonment: The Complainant alleged that Officer Harris stopped and detained her without cause.

1st Issue: Did Officer Harris have reasonable suspicion to stop and detain the Complainant?

ACRB staff recommends that the allegation of **False Imprisonment**, as it relates to this issue, against Officer Harris be assigned a finding of **Exonerated** (*the alleged act occurred, but was justified legal or properly within department policy*).

2nd ISSUE: Was Officer Harris justified in extending the detention for the purpose of investigating a possible drug violation?

ACRB staff recommends that the allegation of **False Imprisonment** against Officer Harris be assigned a finding of **sustained** (*sufficient evidence to conclude the alleged act was committed*).

2nd Allegation – Excessive Force: The Complainant alleged that after she complained about the handcuffs hurting her, Officer Harris would not loosen them.

ACRB staff recommends that the allegation of **Excessive Force** against Officer Harris be a finding of **Unfounded**. The investigation established that the officer did not commit the alleged acts of misconduct.

3rd Allegation - Appropriate Action Required: The Complainant alleged that Officer Harris unlawfully searched her vehicle and then called a female officer to the scene to do a pat-down on her without cause.

1st Issue: Did Officer Harris have probable cause to conduct a search of the interior and trunk of the Complainant's vehicle?

ACRB staff recommends that the allegation against Officer Harris of **Appropriate Action Required, as it relates to the search of the trunk**, be a finding of **Sustained**. The investigation established that there is sufficient evidence that the officer committed the alleged acts of misconduct. However, the allegation of **Appropriate Action Required, as it relates to the search of the interior of the vehicle**, The ACRB staff recommends a finding of **Exonerated**. The investigation established that the officer's act was lawful, justified and in accordance to APD policy.

2nd Issue: At the request of Officer Harris, a female officer (Erika Trujillo) arrived on the scene and conducted a pat-down on the Complainant.

ACRB staff recommends that the allegation against Officer Harris of **Appropriate Action Required**, as it relates to the pat-down, be a finding of **Sustained**. The investigation established that there is sufficient evidence that the officer committed the alleged acts of misconduct.

SPECIAL NOTE: It is noted that although Officer Erika Trujillo conducted the pat-down of the Complainant, Officer Trujillo should not be held accountable as her act was based on information received from Officer Harris.

- C. **BOARD'S VOTE ON 1ST ISSUE:** Did Officer Harris have reasonable suspicion to stop and detain the Complainant?

Bartels moved to accept staff's recommendation to assign a finding of **exonerated** against Officer Harris. *Brogdon* seconded. Hearing no further discussion, the vote was called and the motion was approved.

- D. **BOARD'S VOTE ON 2ND ISSUE:** Was Officer Harris justified in extending the detention for the purpose of investigating a possible drug violation?

Discussion and Comments...

1. (*Brogdon*) *I feel a little different than I think most of the board on this. The officer could have easily...if it was a male, they would have searched him right there. The male can't search the female*

and you can stash contrabands...put it in your pocket. So what's the use of him searching the entire car, if the marijuana smell is coming from her pocket? That means the officer should be able to hold her for nine minutes. Yes, that is detaining for a long time, but what's really the option...let her go? If he had reasonable suspicion to search the car, then we can all agree on or at least a probable cause to search the car, then searching her is an extension of the vehicle. That's probably not a legal term. In this case, she could have hid something in her pocket too. This is probably one of the cases that I disagree with staff.

2. **(McDaniel)** So if she had hidden something in her pocket? Wouldn't it have been found during the search?
3. **(Williams)** He had to wait for a female officer. If you stop a female, then you need to call a female officer to search them and we do the same thing for the LGBTQ Community also if they request it. So in this case, she had to wait. Nine minutes is reasonable and I guess it's also an issue.
4. **(Bozarth)** Keep in mind, the other part of the extending search which is what the investigator suggested which was inappropriate, was once he found no evidence of drugs with the compartments of the vehicle, he proceeded to search the trunk and there was not real rationale according to standard operating procedures. I do believe that we have a case to sustain the charge.
5. **(Bartels)** Correct me if I am wrong. The reason why the officer gave her the pat-down was for weapons, right?
6. **(Lolar)** Yes.
7. **(Bartels)** It's not legal for an officer to say, just because someone is in a high crime area and we think they have a weapon and pat them down. They have to have some reasonable suspicion that they have a weapon; see a bulge underneath; somebody keep reaching for their waistband. None of that was present. My thought is, even if the officer said that he smelled marijuana, there was still not reasonable suspicion to have her search for a weapon.
8. **(Brogdon)** I thought that we were talking about including the trunk. So this is purely the issue of them waiting to have a female officer come and search. I withdrawal my motion.
9. **(Williams)** There are so many things going on here. According to Issue #2, we're talking about extending the detention.

Chair Williams opened the floor for a motion. **Brogdon** moved to disagree with staff's recommendation to assign a finding of **Unfounded** against Officer Harris for Issue #2. **McDaniel** seconded. The motion was defeated with five opposing vote (**Harrison, Souder, Pitre, Bozarth, Bartels**).

Following the failed motion, it was moved by **Harrison** to accept staff's recommendation to assign a finding of **sustained** against Officer Harris. **Bozarth** seconded. Hearing no further discussion, the vote was called and the motion was approved with three opposing votes (**Souder, McDaniel and Brogdon**).

E. BOARD'S VOTE ON 2ND ALLEGATION OF EXCESSIVE FORCE ON OFFICER HARRIS

Houston-Torrence moved to accept staff's recommendation to assign a finding of **unfounded** against Officer Harris. **Bartels** seconded. Hearing no further discussion, the vote was called and the motion was approved

F. BOARD'S VOTE ON 3RD ALLEGATION/ ISSUE #1 OF APPROPRIATE ACTION REQUIRED ON OFFICER HARRIS – Part 1 – As it relates to the search of the trunk

Houston-Torrence moved to accept staff's recommendation to assign a finding of **sustained** against Officer Harris. **Pitre** seconded. Hearing no further discussion, the vote was called and the motion was approved.

G. BOARD'S VOTE ON 3RD ALLEGATION/ ISSUE #1 OF APPROPRIATE ACTION REQUIRED ON OFFICER HARRIS – Part 2 – As it relates to the interior of the vehicle

Brogdon moved to accept staff's recommendation to assign a finding of **exonerated** against Officer Harris. **Bartels** seconded. Hearing no further discussion, the vote was called and the motion was approved.

H. BOARD'S VOTE ON 3RD ALLEGATION/ ISSUE #2 OF APPROPRIATE ACTION REQUIRED ON OFFICER HARRIS – As it relates to the Pat-down

Bozarth moved to accept staff's recommendation to assign a finding of **sustain** against Officer Harris. **McDaniel** seconded. Hearing no further discussion, the vote was called and the motion was approved.

I. BOARD'S DISCIPLINE RECOMMENDATION ON OFFICER HARRIS

Officer Harrison has no formal violations. He has one sustained complaint from September 2016 for not reporting an extra job. Office Harrison has been employed with the Atlanta Police Department since January 17, 2013.

Discussion and Comments...

1. **(Bozarth)** *I see this is an officer trying to do things by the book and he got overly exuberant here. I don't think what he did is egregious. I suggest one disciplinary action to cover them all.*
2. **(Bartels)** *I would agree with what Mr. Bozarth said. From what is in the report, it doesn't seem like the officer was acting in bad faith or malice. I think it appears that he believes that this was the way. There are two issues; one, the search of the trunk without any reasonable suspicion, and the other issue is without any reasonable suspicion if she had any weapons. I would be okay with oral admonishment and additional training in those areas.*

Bartels moved to recommend that Officer Harris receive an oral recommendation and vehicle search and pat-down training. **Houston-Torrence** seconded. Hearing no further discussion, the vote was called and the motion was approved.

SPECIAL NOTE: Due to the arrival of Atlanta Police Chief Erika Shields, the **Chair** yielded the floor to APD Chief Erika Shields. Chief Shields introduced two of her staff, Major C. Murphy, Office of Professional Standards and Major B. McGee, Chief of Staff, Office of the Chief.

Chief Shields thanked the Atlanta Citizen Review Board (ACRB) for the invitation to address the board. She stated that she is appreciative of ACRB's commitment to civilian oversight and that she is aware of ACRB's history since its conception. She acknowledged past rough spots with the ACRB; however, she indicated that her goal is to work with ACRB and will make a good faith effort to provide ACRB with what it needs. The Chief stressed that one of her priorities in terms of officers' conduct and discipline is people are held accountable for their actions. "If we have employees who are not holding up the standards of which I expect the City of Atlanta should be afforded, I will deal with that employee."

Following her comments, Chief Shields entertained questions from the board. A complete transcript of the Questions and Answers between Chief Shields and the Board, are available on the ACRB website: www.acrbgov.org.

COMPLAINTS REVIEW CONTINUED

ACRB CASE NO 16-101, KELVIN CAIN

A. ALLEGATION SUMMARY

The Complainant alleged that on July 18, 2016, Officers Virginia Pena-Barrientos and Emerald Strong failed to act appropriately when they responded to a dispute call concerning Mr. Cain and the pool staff employees at the John A. White Park swimming pool.

B. STAFF RECOMMENDATION

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

Discussion and Comments

1. **(Souder)** *I think that it is rather a tough policy, but it appears based on the information in the file. Clearly there was a sign that said, "No refunds." I think that the officer acted appropriately.*
2. **(Houston-Torrence)** *He got his money back the next day.*

C. BOARD VOTES ON STAFF RECOMMENDATION

Bozarth moved to accept staff's recommendation to assign a finding of **Unfounded** against Officers Pena-Barrientos and Strong. **Houston-Torrence** seconded. Hearing no further discussion, the vote was called and the motion was approved.

OLD BUSINESS

Police Academy 2017

A date for the next Police Academy Training in 2017 has not been determined. **Reid** will provide information for 2017 Academy training at the next meeting.

Reporting to Appointing Agencies

When providing the agencies with a report, Board members may email their reports and copy the ACRB office. **Reid** indicated that members can use the reporting form that is enclosed in the monthly packets as a guide. *"Basically, what I am most interested in is some type of communication with the appointing entity. I know Bill Bozarth puts together a nice email explaining what occurred and other activities related to ACRB. If you want to structure it as an email...that's good. If you want to use the form...that's good. If the reporting agency has a form, you can you that as well. I just need communication back that you are doing it on a quarterly basis."*

NEW BUSINESS

2017 BOARD ELECTION

Discussion and Comments

1. **(Williams)** *Regarding the February meeting, and electing officers, are the positions in the election for the Chair, Vice Chair and Secretary? How do we officially announce our intentions on running or not?*
2. **(Reid)** *In the past, I requested those individual who were interesting in running for a position to email the office. Those that are not where they need to be, we can have that conversation; instead of trying to have it in public. We will provide the ballots. Everyone will be getting an election manual guide so that you can think about how you would like to vote.*
3. **(Souder)** *You don't need to send me a copy because next month will be my last meeting.*
4. **(Williams)** *I would like to announce my intentions to run for chair and I will follow that up with an email. I will have surgery on my knee next Wednesday; knee replacement surgery. I hope to be at the*

meeting next month. If I am not here, I will be recuperating. I do plan on being here. The meeting will be on February 9th. It will begin at 5:30 p.m., 2nd Floor Atrium, Committee Room One.

PUBLIC COMMENTS:

No Public Comments

ADJOURNMENT

No further business, by show of consensus, the meeting adjourned at 7:54 P.M.

ACRB Minutes for January 12, 2017 were approved: February 9, 2017
Paul Bartels, Board Secretary

Transcribed: LG