

Approved

Revised June 9, 2016



ATLANTA CITIZEN REVIEW BOARD MINUTES OF THE MEETING

May 12, 2016

55 Trinity Avenue, SW

2nd Floor Atrium Committee Room One

Office Telephone: 404-865-8622

Atlanta, Georgia 30303

6:30 p.m.

The May 2016 meeting was called to order by *Chair Sherry Williams* at 6:32 p.m. opening with prayer by *Houston-Torrence*.

AGENDA

ROLL CALL

(The ACRB has eleven members)

ACTIVE MEMBERS PRESENT

SHERRY WILLIAMS *(Chair/Williams)*

CECILIA HOUSTON-TORRENCE *(Torrence)*

GINO BROGDON *(Brogdon)*

WILLIAM HARRISON *(Harrison) (arrival time 6:34)*

GERALD SOUDER *(Vice Chair/Souder)*

BILL BOZARTH *(Bozarth)*

HAROLD HARDNETT *(Hardnett) (arrival 7:10)*

ACTIVE MEMBERS ABSENT

RUTH PRICE *(Price)*

PAUL BARTELS *((Secretary/Bartels)*

VACANT BOARD SEATS

APAB-NPU *(Group S - Z) – (12 months)*

Office of the Mayor *(vacant 2 years and 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 Admin. Assistant, (*Garrett/Transcriber*); **VERONICA HOFFLER**, (*Hoffler*) COA Law Department; **LIEUTENANT JESSE WEBB** (*Lt. Webb*) Atlanta Police Department

APPROVAL OF MINUTES OF THE LAST MEETING, APRIL 14, 2016

Chair Williams opened the floor for discussion and corrections to April minutes. There were no corrections noted for the record.

Houston-Torrence moved to approve the minutes as recorded. **Souder** seconded. Hearing no discussion, the motion was approved.

SPECIAL PRESENTATION - COLOR OF LAW INVESTIGATIONS

FBI Special Agent Andrew M. Benjamin of the Public Corruption Department presented before the ACRB on the Color of Law Investigations. Special Agent Benjamin is a member of the FBI Public Corruption Department. The department is responsible for civil rights, color of law violations, and investigates other violations of the federal law. Here are some of the specifics presented by Special Agent Benjamin:

- “Color of Law” means using or abusing legal authority.
The FBI has primacy to ensure the power is not abused. The following is a list, referred to as ‘Tremendous Power,’ under this authority:
 - Detain and arrest
 - Use force in certain situations
 - Search and seize property
 - Bring criminal charges

- There are three elements of the statute:
 1. Color of Law (you have to have the authority to abuse the authority).
 2. Intent – “Willfulness”
 3. Violation of Constitutional or Statutory Right

Color of Law violations are considered misdemeanors and although hate crimes fall under the civil rights umbrella, Color of Law and hate crime are two separate things.

- Color of Law Factors:
 - Duty Status (on or off)
 - Clothing
 - Use of issued equipment
 - Identified as police officer
 - Commands
 - Reason for dispute (personal vs. official)

- Complaint Procedures.
If the ACRB or anyone else wanted to lodge a formal complaint investigation, there is no formal complaint process for the FBI. All you need to do is send a simple email, or place a call or walk into an office. All of these will work.

For a more information on Special Agent Benjamin’s presentation, refer to the attached document.

Discussion and Comments...

1. *(Williams) If you get booked in on Friday or midday Friday, and a certain law enforcement agency purposely will not allow you to post bail until Monday. Who would initiate that investigation? Where would it come from? Could that come from the individual or as you said, most of your investigations come from local law enforcement but in some instances, we know they are not going to tell on themselves.*
2. *(Agent Benjamin) Correct and the victim could complain. Different municipalities have different procedures and there is a cut off time at the Federal level every day. If you do not come before a magistrate within your district by a certain time, you may end up spending the night in jail. Giving the scenario that she just said to me, it's a color of law violation because there's willfulness there. Under color of law, willfully and knowingly depriving someone of their right to due process. Tell me how we would prove the willfulness part?*
3. *(Williams) Patterns.*
4. *(Agent Benjamin) That could be evidence, but it may not be proof. I am not trying to be discouraging, but I am trying to give you some insight as to what happens. If the officer said, "Hey, I bought this person before the magistrate at 4 p.m. Okay then what took so long and the arrest was made a 2 p.m." Maybe, you can say 4:05 p.m., traffic was heavy? Was there a little bit slower process in putting handcuffs on? Where do we find the willfulness there? It's a challenge to prove that element in order to come up with the color of law violation.*
5. *(Williams) But if you see years...like five or ten years of this.*
6. *(Agent Benjamin) Of a department doing it?*
7. *(Williams) Right.*
8. *(Agent Benjamin) That's something that can be looked at.*
9. *(Harrison) I went to the FBI Citizen Academy; we talked about the color of law. I brought the issue of the situation with Kathryn Johnston, and actually what we saw when Kathryn Johnston was shot and killed, was actually a culmination over a period of time, where there were people in Fulton County Jail who were being mistreated and special agent Brit Johnson, he was like...at the time, I was with the public defender's office, so if you see something, and you know something is going on for a period of time; Agent Johnson's attitude was, it doesn't matter...just call the FBI office. Lay out what you think you may have as an issue and the FBI will take it from there.*
10. *(Bozarth) I'm just going to see what your opinion is. One of the things that I comment on frequently is, we had cases over the last few years where an off duty Atlanta police officer has been asked to be at some event; let say, a bar or a restaurant. He is there to assist the owner in keeping order on the premises and there are instances where there are complaints brought forth where the officer had to enforce the rules of the establishment. One example was somebody was in an apartment complex and the owner didn't want him there; the owner asked the officer to remove him. He wasn't enforcing a law of the city of Atlanta. He was enforcing the rules of the premises where he was hired as a second job. Is there possibly any area where an officer could exceed his authority when he is not enforcing a law he's sworn to enforce but somebody else's rule? Does that ever come under your umbrella?*
11. *(Agent Benjamin) It can and it really depends on some of the other evidences that go along with that. Is the officer in uniform?*
12. *(Bozarth) They usually are.*
13. *(Agent Benjamin) In that case, you're representing that you are operating with the authority as an Atlanta Police Department Officer. On the flip side of that, is the officer a reserved officer for a smaller department and just working the security job? Is he is wearing black pants and a grey T-Shirt; now he's just working as security?*
14. *(Bozarth) Take the instance where he is in his regular uniform.*
15. *(Agent Benjamin) There's no absolute. If you look along those spectrums; he's wearing the uniform, he's showing up in a police car; willfully violating someone's rights, then, yes; it has the potential of a color of law violation. It's an outline you have to take into consideration with all those factors for each one of those elements. So, under color of law,*

the uniform; the badge, getting commands; the equipment that's used, all those things go into consideration. Willfulness...he understands and knows that this person has rights and I am going to violate them anyway whether it means seizing them when I shouldn't or searching them when I shouldn't or taking their stuff and causing bodily harm. Can police officer hurt people? Yes. Do we want to hurt people? No. Is it necessary sometimes to get people into handcuffs because they are being non-compliant? However, if someone is not resisting and they are passive and there're handcuffed behind their back, and they mouth out and you decided that you want to pop them, that's a 'no go.' So, for your particular situation, I'm not really sure what it is, but those are the things that would go into consideration.

16. **(Dan Gordon)** *My name is Dan Gordon, Chief Operating Officer from the Mayor's Office, City of Atlanta. I just want to thank you Agent Benjamin. I work with Special Agent Johnson on a few matters. Thank you for your partnership. The FBI is extremely important in the work of this City.*
17. **(Agent Benjamin)** *Thank you Mr. Gordon and Mr. Reid, thank you for the invite. I am happy that I was able to come down.*
18. **(Dan Gordon)** *Can I make two comments for the Mayor real quick? I will be very brief. Again, for those who do not know me, I am Dan Gordon, Chief Operating Officer with the Mayor. We work closely with Police, Fire and Corrections and of course all the operating departments. I just want to say that on behalf of the Mayor and myself, thank you for what you are doing with your time and your service. It is extremely important that we support our officers and have a fair process to make sure their rights and citizens are protected, especially in today's time in policing. If you have any reason for extra training or things that you feel you need to help make more effective decisions, I hope that you will let me know directly. I just want to thank you very much on behalf of the Mayor and myself. Thank you*
19. **(Williams)** *We do have two (2) requests. One of them is, when he (Lt. Webb) is not here, we need to make sure that somebody is here from the police department. When he (Lt. Webb) is on vacation, APD does not send anybody and that seems like that's always the time when we have a question for him. The other thing is that we did send an official letter to the Mayor requesting a meeting. We would like for him to meet with us. We asked for the meeting in May or June?*
20. **(Harrison)** *I've been asking for a meeting back when I was chair. It's been longer than that.*
21. **(Smith)** *For the record, the Mayor has met with the board in the past and when you were Chair (Harrison), he did schedule the meeting, but you had to cancel because, you had to go out of town.*
22. **(Bozarth)** *I have a comment too. We have eleven (11) appointments to the board, expanding to thirteen (13); one of the appointments is the Mayor's, and that chair on this board has been empty...for how long?*
23. **(Reid)** *Two years.*
24. **(Bozarth)** *So, we would like the Mayor to exercise his responsibility of an appointment and fill that seat. That's the longest we ever had a seat empty...I'm not sure why that is happening.*
25. **(Dan Gordon)** *Is there a particular topic, besides the appointment and the officer representation, that's important for me to brief him (the Mayor) on?*
26. **(Williams)** *As for as the meeting, well, we said it in the letter. I'm sure Myola (Smith) can forward you a copy on it. But basically, it was a request to meet with the board. We have new officers and we have never met with him. It's a courtesy meeting just to get to know each other and know that we are not enemies. We are here to make Atlanta a better place, not to be adversaries and we want to make sure that we have that positive open line of communication. We should be partners. Thank you Mr. Gordon for coming.*

27. *(Dan Gordon) I will talk with Chief Turner regarding an officer being at this meeting because we should have a backup plan. We do it at the NPUs. I do want you to have that personal relationship with the administration.*

Special Note: The Chair noted the arrival of Harold Hardnett at 7:1 p.m.

28. *(Chair Williams) Mr. Reid, you have a presentation?*
29. *(Reid) At the last meeting, the board asked for some legal advice.*
30. *(Attorney Hoffler) Chair Williams, what would you like to do?*
31. *(Williams) As far as?*
32. *(Reid) I'll address that when I get to that.*
33. *(Harrison) I just want to say with regards to the FBI presentation and having gone to the class; the class is invaluable. It is the most in-depth class that I think that is out there. It trumps APD's Citizen Academy almost tenfold. What I did was, I got with Special Agent In Charge, Britt Johnson and I tried to see how we can get the board in because it is a selective process that they have. I don't know if the whole board could come. Teresa Westbrook is working on that to see if she could get the entire board at one time. When you graduate you become a member of the FBI Academy Alumni. So through that organization, I will try and see if I can get everybody...at least an invitation to go to the academy because it is invaluable. The presentation tonight was only a snap shot of what they (FBI Academy) go into as far as Color of Law.*

EXECUTIVE DIRECTOR'S REPORT

The following highlights were reported by **Director Reid**:

- **Budget**
On May 5th, 2016, the agency made its annual budget presentation to the City Council Finance Committee. As I mentioned at the last meeting, the proposed budget, 2017 will remained flat, with an exception of funding to cover the changes to the ordinance.
- **New Board Positions**
The People's Agenda and Urban League of Greater Atlanta received information regarding their recently approved seat on the ACRB. Both are reviewing potential appointees to serve on the board. If their nominations are submitted within the next two weeks, we anticipate having the seats filled by end of June.
- **Attendance Policy.**
From preliminary research, there does not appear to be a standard for the city boards with regard to what constitutes how much attendance at a meeting is required to satisfy being present at a meeting. **Reid** indicated that he did not find any helpful information from other city boards that covered this topic. However, after some internet research, information was found that those boards that have considered the matter have not identified a specific amount of time of absence from a meeting, but have used terms such as "not insignificant" and "noteworthy" (1 hour or more) period of time" as standards to determine whether a member is absent or present. **Reid** noted that this is a good issue for a committee discussion.
- **By-laws Committee**
Reid reported that he only received one person who is interested in serving on the By-Laws Committee. There are several items that the Board needs to address concerning the changes in the ordinance. The By-Laws Committee could also look at the attendance policy if a separate committee is not formed to consider it.
- **New Office Staff: Administrative Assistance**

A new administrative assistance was recently hired. Her name is Melisa Reese. She is a native of Atlanta. She is a former state employee. In addition to routine administrative tasks, Melisa will also focus on managing databases, including IA Pro, and transcripts for investigations and 911 calls.

Personal note: Reid reminded board members of the email that was sent out regarding making a charitable donation in the name of Board Member Paul Bartels' mother who recently passed away. Anyone that is interested in making a contribution, please do so by tomorrow.

Discussion and Comments...

1. **(Harrison)** *I have a question. First with Paul's issues, if we bring you a check by noon tomorrow, is that too late...what time?*
2. **(Reid)** *No, it is not too late, but just let me know what you are thinking about doing because I want to go ahead and take care of it in the morning. The amount you are considering, I will, in good faith, cover it until I receive your donation.*
3. **(Harrison)** *And the second thing is regarding the By-laws Committee, I sent you (Reid) an email that you may not have gotten regarding the follow-up committee. I was out of the country. Did you get that? Do you have enough people to serve on the Committee?*
4. **(Reid)** *I only had one person to respond about the by-laws.*
5. **(Williams)** *We just needed three (3) people. To form the committee, we assigned members or we ask for volunteers.*
6. **(Smith)** *For the record, please state the names of the people who have been assigned or volunteered?*
7. **(Williams)** *Yes. Cecilia Torrence, Bill Bozarth and Gino Brogdon. The only thing that we need to do now is get a couple of people to volunteer for the attendance policy.*
8. **(Reid)** *It would be nice to have the policy done soon to bring back to the board by the June meeting. Essentially, it is just dealing with the attendance as I was saying in the Executive Director Report. No one has a set time limit or anything structured when it comes to board attendance; it's more of...did you miss a significant amount of meetings; should you still be able to receive payroll? That's something we probably can talk about, or take it to the By-laws Committee and let that committee come up with a policy since it is going to be written in the By-laws.*
9. **(Williams)** *Great let's do that.*

INTAKE REPORT FOR APRIL 2016

Investigation Manager **Robertson** reported that for the month of April 2016, the ACRB received twelve (12) complaints.

A. COMPLAINT BREAKDOWN AND STAFF RECOMMENDATIONS:

The ACRB staff is seeking approval to dismiss six (6) of the 12 complaints. It should be noted that the proper referrals were given to those citizens whose complaints fell outside of ACRB's jurisdiction. The following is a list of the complaints that are being recommended for dismissal and the reason for the recommendation:

1. ACRB Case No. 16-055 – False Arrest
Recommend dismissal for lack of merits.
2. ACRB Case No. 16-057 - Other
Recommend dismissal for lack of jurisdiction.
3. ACRB Case No. 16-059 – False Arrest
Recommend dismissal for lack of jurisdiction
4. ACRB Case No. 16-060 – Other
Recommend dismissal for lack of jurisdiction

5. ACRB Case No. 16-062 – Sexual Harassment
Recommend dismissal for lack of jurisdiction
6. ACRB Case No. 16-066 – False Arrest
Recommend dismissal for lack of jurisdiction.

Investigation recommendations:

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

1. ACRB Case No. 16-056 – False Arrest
The Complainant alleges that on March 4, 2016, he was falsely arrested by APD. Awaiting Complainant's signed complaint. If the signed complaint is received within the next few weeks, then recommend investigation as a possibly false arrest complaint. If signed complaint is not received, then recommend dismissal. Furthermore, if Complainant's criminal case stemming from this incident is still pending adjudication in the courts, the investigation into the false arrest allegation will depend on its outcome. Therefore staff recommends suspension of the investigation pending the resolution of his case and if the case is resolved in Complainant's favor, then recommend investigation as a false arrest complaint. If not, then recommend dismissal.
2. ACRB Case No. 16-058 – False Imprisonment & False Arrest
The Complainant alleges that on February 22, 2016, and March 7, 2016, he was falsely arrested by APD. Preliminary investigation revealed that Complainant's February 22nd arrest was pursuant to a warrant stemming from his December 10th arrest where he was charged with terroristic threats and obstruction of law enforcement officer. The Fulton County Superior court records show that he accepted a plea deal to said charges. As it relates to the Complainant's March 7th arrest, the Atlanta Municipal Court record shows that his case was dismissed. Recommends investigation as a false imprisonment complaint, as it pertains to the February 22nd arrest (*look into what led to the stop*) and as a false arrest complaint, as it relates to the March 7th arrest.
3. ACRB Case No. 16-061 – Excessive Force & False Arrest
The Complainant alleges that on March 9, 2016, he was falsely arrested by APD officers. Complainant further alleged that during the arrest, the officers engaged in excessive force when they slammed him to the ground causing injuries to his face and mouth. Recommend investigation as an excessive force and possibly a false arrest complaint. However, preliminary investigation revealed that Complainant's criminal case stemming from this incident is pending adjudication in the Atlanta Municipal Court and the investigation into the false arrest allegation will depend on its outcome. Therefore, recommend suspension of the investigation pending the resolution of his case.
4. ACRB Case No. 16-063 – Threats
The Complainant alleges that on April 19, 2016, an APD Sergeant, who is investigating his case threatened to have him arrested if he continued to call her. Awaiting the Complainant's signed complaint. If the signed complaint is received within the next few weeks, then recommend investigation as an inappropriate action required complaint. If not received, then recommend dismissal.
5. ACRB Case No. 16-064 – False Arrest
The Complainant alleges that on April 21, 2016, she was falsely arrested by the APD. Awaiting Complainant's signed complaint. If the signed complaint is received within the next few weeks, then recommend investigation as a false arrest complaint if Complainant criminal case is resolved in her favor. If Complainant case is still pending adjudication in the courts, then recommend suspension of the investigation pending its resolution.

6. ACRB Case No. 16-065 – False Arrest

The Complainant alleges that on March 26, 2016, she was falsely arrested by APD. Awaiting Complainant's signed complaint. If the signed complaint is received within the next few weeks, then recommend investigation as a false arrest complaint if Complainant's criminal case is resolved in her favor. If Complainant's case is still pending adjudication in the courts, then recommend suspension of the investigation pending its resolution.

Reconsideration of Complaint:

ACRB Case 16-003 – Reckless Driving

The Complainant had filed a complaint alleging that on January 10, 2016, he was walking on Bankhead Highway and Donald Lee Hollowell Parkway when an APD patrol car (#32104) traveling approximately 80 mph, with no emergency lights or siren activated, almost struck him. At the time of his complaint, the allegation was outside of the Board's jurisdiction and was dismissed. On April 20, 2016, the Complainant re-filed his complaint. It is now recommended that Mr. Washington's complaint be re-opened and investigated as an allegation of inappropriate action required.

Discussion and Comments...

1. *(Williams) So this is one of those that is a result of the change of the ordinance.*
2. *(Robertson) Yes.*
3. *(Bozarth) On your reconsideration Sheena, what grounds do we have for the complaint now... after the ordinance that we did not have before?*
4. *(Robertson) The inappropriate action required. That's a new allegation that we are now able to investigate. It's one of those broad categories.*
5. *(Bozarth) So driving your car real fast will fall under the category.*
6. *(Robertson) Yeah, that's something that we can look at under that particular category because it's a broad category.*

B. BOARD VOTES ON INTAKE REPORT

Bozarth moved to accept the Intake Report for April. *Souder* seconded. Hearing no further discussion, the motion was approved with complaint.

COMPLAINTS REVIEW:

ACRB CASE NO 13-102, MALIK EL

A. ALLEGATION SUMMARY

The Complainant alleged that on June 25, 2013, while at 1432 Connally Ave, S.W., Atlanta Police Officer Terrence Malone falsely arrested him.

B. STAFF RECOMMENDATION

The ACRB staff recommends that the allegation of False Arrest against Officer Malone be assigned a finding of **Not Sustained** (*there is insufficient evidence to conclude that the officer committed the alleged acts of misconduct*).

Discussion and Comments...

1. *(Bozarth) Who called the 911 to bring the officers to the scene of the altercation, the complainant?*
2. *(Fleming) Yes it was.*

3. (**Bozarth**) *Isn't it somewhat ironic that he was the one that summoned the police and ended up going to jail?*
4. (**Fleming**) *Yes. He was arrested as well as the person that he was calling the police about.*
5. (**Bozarth**) *Is that normally what is done when two people are in a fight; both get arrested?*
6. (**Fleming**) *Yes, it's possible. Both can be arrested.*
7. (**Williams**) *Well, I had the same concern...you know. He said that because there was a weapon involved. That may be why.*
8. (**Bozarth**) *Did they find a weapon?*
9. (**Fleming**) *We cannot guess, but what we do know is that the officer did investigate. What the officer did say in his report as well as re-iterated in his statement was, "I tried to find out!" Both people said ...both gave conflicting accounts, but both said that there was some type of physical interaction between them and that's when the investigation started. He wanted to find out who the aggressor was and what actually happened. He couldn't find that third person to be a witness and confirm one way or another, and since there was physical violence, both were arrested. It goes back to the officer. He has to find out who was the primary aggressor and in this instance, he wasn't able to. By both of them admitting that they were physically involved, it is a he said/he said situation. He arrested both of them.*
10. (**Hardnett**) *I have a question. The police said that he couldn't differentiate who was the aggressor correct? One of the guys had a gun, I think.*
11. (**Fleming**) *That's what he was trying to find out. Was there an actual gun when they had the actual fight? They couldn't find any witnesses. They said that they talked to the guys inside the house and they said, "No there was no gun." There was no one to dispute that. That's when they started to canvass.*
12. (**Bozarth**) *I was wondering; independently of this case, what's the rationale for locking two people up when you can't figure out which one might have been at fault?*
13. (**Harrison**) *The only proof that he had was that there were two people who were fighting. They only had proof of a physical confrontation between two people; he had scratches and abrasions. I don't know what the other guy had, but if there was no way that he could find that guy; he didn't have any witnesses, so the only proof that he had was that these two people had been in a fight.*
14. (**Fleming**) *And they both admitted it.*
15. (**Brogdon**) *They said that there was an altercation. That means that technically it was disorderly conduct and if there is a self-defense claim, then you need to do a report. So you need to arrest both of them or you arrest neither.*
16. (**Bozarth**) *It seems that is the way the officers might have handled it ...weren't there several officers on the scene?*
17. (**Fleming**) *Yes.*
18. (**Williams**) *We are trying to figure out what the policy is when two people are in a dispute...like this case. One of them called the police and both of them ended up being arrested. We just want some kind of insight. Both of them ended up going to jail, but the case was dismissed when they went to court...*
19. (**Fleming**) *Yes, but that was because they weren't placed on the court docket in time.*
20. (**Lt. Webb**) *Did the officer basically go by the testimony?*
21. (**Williams**) *He got two different stories. One of them said that the other one had a gun. The gun was never found. They canvassed the area and no one wanted to come forward, even though several people kind of saw it. Nobody wanted say anything. The guy that called the police...he's the one that got hit with the gun.*
22. (**Lt. Webb**) *Sounds like the officer went by the testimony for each person.*
23. (**Robertson**) *They both admitted to fighting.*
24. (**Lt. Webb**) *There was something going on that was against the law so you end up locking up both of them due to their testimony. I think that **Ms. Robertson** said that they were fighting or something?*
25. (**Bozarth**) *It wasn't going to be resolved until they got to court. They weren't going to resolve it in the jail. I'm just wondering what's the value is instead of issuing them a citation for*

disorderly conduct? What was the value to law enforcement jailing them and therefore, does he have a valid complaint?

26. **(Fleming)** *I think from the action that he (the officer) took trying to find that extra voice. That says that he was trying to find out what actually happened. They took action of canvassing the neighborhood trying to talk to the witnesses, who were identified but each person identified did not want to talk. That shut it down and that meant he only had what they said.*
27. **(Robertson)** *And also, if the physical violence part wasn't involved and it was just a regular dispute or argument between two people, probably this would have been a civil matter. However, because violence was involved, the officer used his discretion. Just like Mr. Brogdon said, they did violate a law and he used his judgment to arrest them. Besides, if the officer had left the scene and left them there still on the scene, tempers could have flared again and somebody could have gotten shot and killed.*
28. **(Bozarth)** *So again, is that sometimes the judgment you make when people are dangerous to themselves? An alternative you have at your disposal is to take them off the streets so that doesn't happen? Is that sometimes used?*
29. **(Lt. Webb)** *That's part of your discretion. If you think that something may happen after you leave and you have enough evidence there to make that decision, then sometimes that is the best result.*
30. **(Bozarth)** *When you interviewed the policemen, did they use that rationale?*
31. **(Fleming)** *He didn't say that we did that to keep them from hurting themselves. He said we did the investigation and couldn't find out what actually happened. What we have is what they told us. They were fighting. That much we do know.*
32. **(Harrison)** *So since it wasn't placed on the docket, it was dismissed. They can't appeal this can they?*
33. **(Fleming)** *It was on a court date for over two years.*

Chair Williams opened the floor for a motion. **Brogdon** moved to accept staff's recommendation to **Not Sustain** allegations against Officer Thomas Gleason for excessive force. **Harrison** seconded. Hearing no further discussion, the vote was called and the motion was approved with one opposed (**Bozarth**).

Note for the record: **Chair Williams** noted that Officer Markesha Scott was a trainee at the time of incident.

ACRB CASE NO 15-116, RONALD ANGELETTI

A. ALLEGATION SUMMARY

The Complainant alleges that on September 11, 2015, while in the vicinity of Metropolitan Parkway, SW and Connell Avenue, SW, Atlanta Police Officers Brian Austin and Cesar Fernandez falsely imprisoned him when they unlawfully stopped and detained him. The Complainant also alleged that during the encounter, Officer Fernandez used abusive language towards him when he used numerous profanities while speaking with him and referred to him as a "n****r" and "black son-of-a-bitch." He further alleged that an unknown officer, while speaking with Officer Fernandez at the scene, referred to him as a "black ass."

B. STAFF RECOMMENDATION

ACRB staff recommends that the allegation of False Imprisonment and Abusive Language against Officer Fernandez be assigned a finding of **Not Sustained** (*the investigation failed to prove or disprove that the alleged act(s) occurred*).

Discussion and Comments...

1. **(Bozarth)** *In preparation for this case last month, Brian, you and I had this conversation. The Complainant claim that he has a master's degree; work for Delta Airlines and he was a former policeman. Were you able to substantiate any of those statements?*

2. *(Fleming) No we did not. It did not have any bearing on this incident.*
3. *(Bozarth) I disagree. I think that if you can prove they were false, that would certainly speak the credibility. I am wondering why we didn't try to establish whether some of this stuff he said was true. It also said that a man was in the car?*
4. *(Williams) Yes and it was a woman.*
5. *(Bozarth) So Mr. Angeletti is either being very wrong here or he is lying a lot in his testimony. Now, you interview him and the officers, did he have some credibility in what he was saying or did he not?*
6. *(Fleming) When I was speaking with Mr. Angeletti... wasn't judging his character in a sense. The only thing that I had to go on was what he was actually saying to me. I didn't go in with any preconceived notions while we were talking. What actually happened was what I was focused on, and that is the direction that the investigation went.*
7. *(Brogdon) The other facts that are important...this is the middle of the night; Metropolitan, which is what we call a high crime area. You look at all of the surroundings facts and personally, I agree with the staff's recommendation purely on the fact that there isn't enough information. We don't have any witnesses to corroborate either side. But the outside facts of being on Metropolitan at 2:00 in the morning that has to go into the analysis.*
8. *(Souder) I think the other thing too is the fact that, it's the same discussion that we had last month; no dash cam video; no other video, no body camera. Again, why do the cars not have equipment?*

Following the discussion, **Chair Williams** opened the floor for a motion on the two allegations.

Allegation of False Imprisonment

Souder moved to accept staff's recommendation to assign a finding of **Not Sustained** for False Imprisonment against Officer Fernandez. **Hardnett** seconded. Hearing no further discussion, the motion was approved.

Allegation of Abusive Language

Torrence moved to accept staff's recommendation to assign a finding of **Not Sustained** for Abusive Language against Officer Fernandez. **Souder** seconded. No further discussion, the motion was approved.

C. BOARD VOTE ON ADDITIONAL RECOMMENDATIONS

The investigation staff also asked the board to consider some additional recommendations to include in the letter to Chief Turner:

1. Look into Mr. Angeletti's claim that Officer Fernandez refused to provide his name when he asked for it.
2. Ensure that the dash cameras in their patrol cars, including Officers Austin and Fernandez's vehicles (*APD Vehicle No. 32114 & 32149*) are operable at all times and utilized to ensure future traffic stops and citizen encounters are memorialized.
3. Look into why Officer Fernandez failed to appear in court on this matter.

It was moved by **Souder** to include the additional recommendations. **Torrence** seconded. Hearing no further discussion the motion was approved.

ACRB CASE NO 15-151, REV. BENFORD STELLMACHER

A. ALLEGATION SUMMARY

The complainant, Rev. Benford Stellmacher alleged that on December 2, 2015, Atlanta Police Officer Dwight Smith falsely imprisoned him when he unlawfully detained him.

B. STAFF RECOMMENDATION

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

Following a very brief discussion, **Bozarth** moved to assign a finding of **Not Sustained** to the allegation of False Imprisonment against Officer Dwight Smith. **Souder** seconded. Hearing no further discussion, the vote was called and the motion was approved.

OLD BUSINESS

Smith reminded board members that the Art and Essay Contest will end on May 20, 2016. The contest judging will held Friday, June 3rd and Saturday, June 4, 2016.

NEW BUSINESS:

The members of the board decided that once the minutes of ACRB's monthly meetings have been approved, a copy of the approved minutes will be emailed to Atlanta Planning and Advisory Board (APAB) Chair to share with the NPUs. This practice will continue for the next few months, and during this time, staff will continue to reiterate that the same information can also be viewed directly on ACRB's website.

PUBLIC COMMENTS

No Public Comments

ADJOURNMENT

The **Chair** entertained a motion to adjourn. Meeting adjourned 8:02 P.M.

ACRB Minutes for May 12, 2016 were approved: June 9, 2016
Paul Bartels, Board Secretary

Transcribed: LG