



April 12, 2010

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Executive Director

Interim Chief George Turner
Atlanta Police Department
226 Peachtree Street, S.W.
Atlanta, GA 30303

RE: 09-04 Complaint of Jeremiah Perdue

Dear Chief Turner:

The Atlanta Citizen Review Board (“ACRB”) completed its investigation and adjudication of the complaint that was filed by Jeremiah Perdue against Atlanta Police Officers Deontaye Harris and Luis Gonzalez.

Kasim Reed

Mayor of Atlanta

Mr. Perdue alleged that on November 12, 2008, Officers Harris and Gonzalez falsely arrested him and charged him with possession of marijuana. The Board received the complaint on April 9, 2009. Review of the matter was suspended until the criminal case against Mr. Perdue was adjudicated. On October 20, 2009, the Board’s investigator contacted the City Solicitor’s Office and was informed that that the criminal case against Mr. Perdue was dismissed for insufficient evidence. The complainant was then contacted and an interview was conducted.

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Mr. Perdue stated that on November 18, 2008 at about 9:30 a.m. he was on the porch of his parents’ residence located at 661 Brookline Street, SW, Atlanta when a police car parked in the driveway. Mr. Perdue stated that two police officers approached him and asked if they could question him regarding some previous burglaries in the neighborhood. He told them that the house belongs to his parents and advised them that they were on private property. The officers told him that he looked out of place. Officer Gonzalez asked him some questions concerning whether he used drugs and whether he had any warrants outstanding. Mr. Perdue said that he replied in the negative and Officer Gonzalez then asked for his name and address. He provided that information to the officer. In the meantime, Officer Harris went to the patrol car and returned and informed them that Mr. Perdue had an outstanding warrant. Mr. Perdue was handcuffed and placed in the back seat of the patrol car. Mr. Perdue alleges that Officer Harris came to where he was sitting, reached into his (Officer Harris’s) pocket, pulled out a small bag, shoved it in his (Perdue’s) face and asked if it belonged to him. Mr. Perdue said that he replied,

“No,” adding that he was not aware of what was in the bag. The officers drove him to the Pre-Trial Detention Center. Mr. Perdue thought that he was arrested for an outstanding warrant. He was informed by a sergeant at the jail, however, that he was being arrested for possession of marijuana.

The investigation revealed that the officers conducted a record check on Mr. Perdue on November 12, 2008. The check revealed that Mr. Perdue had no outstanding warrants. The ACRB investigator attempted to locate the police report associated with this arrest and was told that there was no report on file. The Records Unit advised the ACRB to contact the Zone 3 Commander for assistance. Major Finley was contacted and on the same day, December 28, 2009, the ACRB received a copy of the police report. The report was dated December 29, 2009; more than a year after the incident occurred. It indicated that it was a “replacement report,” however there was no record that a police report was ever generated prior to the one that was received. Lastly, the date listed on the report as to when the incident occurred was incorrect. The replacement report noted that the date of the incident was November 10, 2008. The Chain of Custody report for the drugs was dated November 12, 2008. The drugs were submitted to the Property Control Unit but had not been analyzed. According to the court records, the case against Mr. Perdue was dismissed for lack of a police report.

Officer Deontaye Harris and Luis Gonzalez did not cooperate with the ACRB’s investigation. They appeared but refused to answer any questions about the incident. The report submitted a year after the incident stated that the officers observed Mr. Perdue making preparation to smoke marijuana. There were no independent witnesses and the officers’ failure to submit to an interview left the complainant’s version of the events uncontroverted.

The Board considered the evidence at their meeting on March 11, 2010. They voted unanimously to **Sustain** the allegation of False Arrest against Officers Harris and Gonzalez. They considered the unusual circumstances which resulted in the dismissal of the criminal charges against Mr. Perdue. The Board had no reliable evidence that the officers had made an arrest based on probable cause. False Arrest is defined in the ordinance as, “an arrest by a police officer of the wrong person without probable cause to believe a crime has been committed and/or without a warrant and/or when the arresting party knowingly holds someone who has not committed a crime.” Additionally the failure to file the incident report in a timely manner is a violation of departmental procedures.

The Board then considered the officers’ disciplinary and complaint history. Officer Deontaye Harris has been employed as a police officer since 2002. During this time, there have been twelve (12) complaints filed against him in the Office of Professional Standards. All but one of them has been adjudicated. Five of the complaints were for failure to appear. He has received oral admonishments and a two (2) day suspension for failure to appear in court. Additionally, he received a five (5) day suspension for Unauthorized Use of Force in 2004. The Department also sustained a complaint against

him for falsifying records. He received a three (3) day suspension for this offense in 2006. The Board considered Officer Harris' history and considered the disciplinary guidelines for the Atlanta Police Department. While the guidelines indicate that this offense may merit a three day suspension for "abuse of authority," the Board exceeded the guidelines in its recommendation because the finding involves very serious allegations which reflect upon the officer's honesty. His prior record raises doubts about his moral character and integrity. Certainly, the charge that he planted illegal drugs on a citizen is disturbing and merits further consideration. For these reasons, the Board voted unanimously to recommend that the Chief of Police impose a suspension of twenty (20) working days without pay. This is the harshest discipline recommendation that the Board has ever submitted to the Chief. The Board makes this recommendation because the officer's significant disciplinary history and the current complaint reflect negatively upon his integrity and moral fitness for the job of Atlanta Police Officer.

Officer Gonzalez's disciplinary history was then considered by the Board. Officer Gonzalez has been employed since 2004. He has been the subject of eight (8) complaints to the Office of Professional Standards. All eight complaints involve allegations of excessive force. None have been sustained. One is open. The open investigation was initiated in March of 2009. Since Officer Gonzalez has no sustained violations, the Board voted unanimously to recommend a five (5) day suspension for Officer Gonzalez.

Please let me know if you have any questions or concerns or if you would like to have a copy of the full investigation. The ordinance requires that the Chief respond in writing regarding which recommendations are accepted, rejected, or will be implemented with modifications within thirty (30) days of the submission of a recommendation for action by the Board to the Chief. See Sec. 2-2211(O) of Ordinance 07-0-0141.

Sincerely,



Joy Morrissey

Chair, Atlanta Citizen Review Board

cc: Mayor Kasim Reed
President of Council Ceasar C. Mitchell
Members of City Council



CITY OF ATLANTA

Kasim Reed
Mayor

226 Peachtree Street
Atlanta, Georgia 30303
(404) 546-6900

Atlanta Police Department
George N. Turner
Interim Chief of Police

May 3, 2010

Ms. Joy Morrissey, Chair
Atlanta Citizen Review Board
55 Trinity Avenue, SW
City Hall Tower, Suite 9100
Atlanta, GA 30303

RE: 09-04 Complaint of Jeremiah Perdue

Dear Ms. Morrissey:

I am in receipt of the Atlanta Citizen Review Board's letter, dated April 12, 2010, recommending sustaining the allegation of false arrest against Officers Deontaye Harris and Luis Gonzalez in the complaint identified as 09-04, filed by Mr. Jeremiah Perdue.

The Atlanta Police Department's Office of Professional Standards has commenced its own investigation into these allegations and the investigation is ongoing. Upon completion of our investigation, we will forward our findings to the ACRB.

Major M. A. Perdue, commander of the Office of Professional Standards, can be contacted at (404) 658-7028, if you have any further concerns regarding this complaint.

Sincerely,

George N. Turner
Interim Chief of Police

GNT/nk

cc: Ms. Cristina Beamud, ACRB
Asst. Chief P. N. Andresen
Major M. A. Perdue
File