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April 15, 2011

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

RE: Complaints # 10-49. James Hereford

Dear Chief Turner:

The Atlanta Citizen Review Board (“ACRB”) completed its investigation and adjudication of the complaint that was filed by James Hereford alleging unlawful imprisonment and false arrest by Officer Grady Goggins. The allegations were investigated by Marc Addington based on a timely complaint filed by Mr. Hereford.

On August 5, 2010, Mr. Hereford was at the Underground Parking Ramp and mistakenly got off at the wrong floor as he was using the elevator. He decided to use the stairs because he was in a hurry. He proceeded down the stairs and Officer Grady Goggins opened the door and was startled by Mr. Hereford’s presence. Officer Goggins asked what he was doing on the stairwell and Mr. Hereford explained that he had gone to the food court for lunch and mistakenly got off the elevator on the 7th floor and was now trying to get back to work on time. The officer asked his name and where he worked and the complainant answered him. Mr. Hereford was wearing a uniform with his name on it. Apparently, Officer Goggins did not believe Mr. Hereford and Mr. Hereford claims that he was handcuffed and searched. Officer Goggins admits that he did this. Mr. Hereford says that Officer Goggins said that he was going to jail for trespassing and escorted him to the Underground precinct. Officer Goggins took Mr. Hereford’s cell phone and called the last number on the phone and verified what Mr. Hereford had told him. Mr. Hereford explained that he was distracted by a phone call when he got off the elevator at the wrong floor. After the officer verified the information provided, Mr. Hereford was allowed to leave and return to work.

Continue on...

Chief George Turner
RE: Complaint #10-49, James Hereford
April 15, 2011
Page 2 of 3

Officer Goggins was interviewed and said he stopped and questioned Mr. Hereford because he was on a self initiated patrol of the parking ramp because there had been incidents of cars being broken into at the location and because he was surprised by his presence in the stairwell. He was not satisfied with Mr. Hereford's explanation and he decided to move him to Zone 5 mini precinct which is about ¼ mile from the garage. While Mr. Hereford claims that he was handcuffed at the garage, Officer Goggins claimed that he did not recall at what point Hereford was cuffed. Officer Goggins said that he called the number on Hereford's cell phone to verify his claims that he was on the phone when he mistakenly got off the elevator at the wrong floor. Officer Goggins said that his detention was justified by Section 106-57 of the Atlanta Code which concerns Unauthorized Interference or Attempted Interference with Parked Vehicles.

The ordinance specifies in Section 106-57 that individuals may not attempt entry into vehicles, tamper with the vehicle of another or do anything that, under the ordinance, "may be considered in determining whether alarm is warranted."

Among the circumstances which may be considered in determining whether alarm is warranted is the fact that the person opens or attempts to open the doors, trunk, windows or hood of the vehicle; takes flight upon the appearance of a law enforcement officer; manifestly endeavors to conceal himself or any object that may be utilized for entry into an automobile or is otherwise prohibited by law; removed or attempts to remove anything of value from the vehicle; or otherwise causes damage to the vehicle.

Officer Goggins never observed Mr. Hereford anywhere near a parked car. He was observed in the stairwell. According to Officer Goggins, he stopped Mr. Hereford with a raised fist because he was not expecting anyone to be there. Officer Goggins then frisked him and detained him and asked him why he was in the stairwell. He was not satisfied with the explanation, so he took him to the Zone 5 Substation and checked his cell phone records and called the person that Mr. Goggins had been talking to in order to verify Mr. Hereford's version of events. The movement of Mr. Hereford from the garage to the police station was an arrest. In order to arrest an individual, you must have probable cause to believe that a crime was committed and the individual committed the crime. These factors were not present when Officer Goggins seized Mr. Hereford.

For these reasons, the Board voted unanimously to **sustain the allegations of false arrest and false imprisonment**. There was neither reasonable suspicion nor probable cause to arrest Mr. Hereford. The Board recommends that Officer Goggins be reprimanded and be provided with training about investigative stops and the Fourth Amendment to the United States Constitution.

Chief George Turner
RE: Complaint #10-49, James Hereford
April 15, 2011
Page 3 of 3

The Board further recommends that Sergeant Quintana-Green be retrained on the Fourth Amendment. Sergeant Quintana-Green conducted an investigation into this complaint and evaluated the Department's policy on stop and frisk and Atlanta City Ordinance 106-57. She recommended that the allegations be not sustained. She concluded that Officer Goggins was "acting within his duties and took the appropriate actions according with the department policy and procedures. This is not consistent with the law.

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,

A handwritten signature in blue ink, appearing to read "Joy Morrissey", with a stylized flourish at the end.

Joy Morrissey,
Board Chair

cc: Mayor Kasim Reed
Council President Ceasar Mitchell
Members of Atlanta City Council
ACRB Members