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May 13, 2011

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

RE: Complaints # 10-68, Toya Patterson

Dear Chief Turner:

The Atlanta Citizen Review Board (“ACRB”) completed its investigation and adjudication of the complaint that was filed by Toya Patterson alleging unlawful imprisonment and abusive language by Officer Jonathan Pettaway. The allegations were investigated by Marc Addington based on a timely complaint filed by Ms. Patterson.

On December 20, 2010 Officers Pettaway, Krawczyk and Cenac responded to her home at 700 Thomasville Boulevard at the request of Ms. Patterson’s landlord, Gillian Elliott. Ms. Elliott had requested police assistance in order to conduct an inspection of her property. Ms. Patterson said that she opened the door and Officer Pettaway pushed the door open and told her to move. He told her to stand right there and allowed the landlord to enter the house and conduct the inspection. Ms. Patterson further claimed that Officer Pettaway told her that she could not stop someone from entering her home and if she wanted to do that, she needed to buy a house. Ms. Patterson said that she asked the officer about her rights, the officer replied that she had none. She stayed with Officer Pettaway near the front door of the house and Officer Pettaway demeaned her by telling her that she needed a high school diploma and she needed to work hard to own a house. According to Ms. Patterson, the officer and landlord were at the house for approximately 10-15 minutes. Her son, D’tavius Patterson, witnessed the interaction; however, two of her sons and her daughter were home.

D’tavius Patterson, who is 13 years-old was interviewed. He said that he observed the police officer tell his mother to wait near the front door. He did not hear the officer say anything to his mother that was related to her education or her ability to purchase a house. He did hear his mother ask Officer Pettaway if the landlord was justified in entering her house and Officer Pettaway responded, yes, because she is the owner of the house.

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Devonatavious Patterson, who is 10 years-old was interviewed and he said that he observed the officer tell his mother to move. He followed the landlord as she moved around the house and did not hear the officer say anything offensive to his mother.

A telephone recorded interview was conducted with Gillian Elliott, the landlord. She lives in Texas. She said that she arranged to inspect the property and contacted the police because there was a previous incident in which Ms. Patterson would not allow her access to the house. She said that Officer Pettaway was met by Toya Patterson at the front door and Officer Pettaway explained that the landlord needed to gain access to the house so they could inspect it. Ms. Elliot indicated that she entered the house and inspected the property while Ms. Patterson and the officer stayed at the front of the house near the front door. She said that Ms. Patterson became upset and asked for the officer's name and badge number. The officer gave her the information. She maintained that Officer Pettaway was courteous and professional and she did not hear or observe Officer Pettaway say anything derogatory about her level of education. Ms. Elliot indicated that Officer Pettaway entered the home.

Another interview was conducted with Wayne Elliott, the landlord's brother. He was present and observed Officer Pettaway explain to Ms. Patterson that the landlord had the right to inspect the property. Mr. Elliott said that Ms. Patterson was rude and disruptive and they stood near the door at the front of the house. He observed no discourtesy.

Officer Pettaway was interviewed and said that he met with Gillian Elliott who said that she wanted to access the house and she was concerned that Ms. Patterson may cause problems. He told her that entering the house was a civil matter and he could not force Ms. Patterson to allow the inspection. She wanted the officer to stand by the location in case Ms. Patterson became violent. Officer Pettaway said that Ms. Patterson opened the front door and allowed Ms. Elliott to enter the house. He stayed near the front door of the house with Ms. Patterson as Ms. Gillian inspected the property. According to Officer Pettaway, Ms. Patterson appeared angry and upset and he advised her that if she did not like the terms of the lease, she should buy a house rather than rent. He said he never forced Ms. Patterson to open her door and he never said anything derogatory about her level of education. Officers Scott Krawczyk and Cenac witnessed the interaction.

Officer Krawczyk was interviewed and he stated that he recalled that Ms. Patterson was upset and that Ms. Patterson permitted the inspection. He said that Officer Pettaway conducted himself in a professional manner and Officer Pettaway and Ms. Patterson stood near the front door.

Officer Cenac said that she responded to the call and observed that Officer Pettaway had the situation under control, so she left.

The Atlanta Citizen Review Board considered the allegation of abusive language. This is defined in the ordinance as meaning harsh, violent, profane, or derogatory language which would demean the dignity of an individual and shall also include profanity and racial, ethnic or sexist slurs. The Board voted to recommend an adjudication of **Not Sustained**. While Ms. Patterson said that Officer Pettaway made several remarks to her that she felt were attempts to belittle and demean her in the presence of her children, these were not witnessed by the others who were present.

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The second allegation considered by the Citizen Review Board was whether Ms. Patterson was falsely imprisoned by Officer Pettaway. Ms. Patterson said that she was instructed to stand with the officer at the door. False imprisonment means intentionally restraining another person without having the legal right to do so; physically detaining someone without the legal right to do so. The constitutional test to determine whether a person has been seized is whether, considering all of the circumstances, "a reasonable person would have believed that he was not free to leave." United States v. Mendenhall, 446 U.S. 544, 554 (1980). Ms. Patterson states that the officer pushed the door and told her to move and pointed to a location near the door and told her to, "stay there." Officer Krawczyk and the landlords did not hear that. For this reason, the Citizen Review Board voted to recommend that a finding of **Not Sustained** be applied to this allegation.

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".

Joy Morrissey,
Board Chair

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