



September 15, 2010

ACRB Members

Joy Morrissey
Chairperson

Charis Johnson
Secretary

Roderick Edmond

Barbara Hubbard

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Maceo Williams

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

Cristina Beamud
Executive Director

RE: Atlanta Eagle Bar Complaints

MAYOR of ATLANTA

KASIM REED

Dear Chief Turner:

The purpose of this letter is to apprise you of the Atlanta Citizen Review Board (ACRB) decisions regarding the complaints made by persons who were present at the Atlanta Eagle Bar on September 10, 2009.

Atlanta City Council

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Post 2-At-Large

H. Lamar Willis
Post 3-At-Large

The Board received twelve complaints. The first complaint considered by the Board was from David Shepherd (**10-16**). Mr. Shepherd complained that he was falsely arrested while in his apartment. Mr. Shepherd is an employee of the Eagle Bar but he was not working on the night of the arrest. He lives upstairs from the bar in an apartment and was home on that evening. The Board recommended a finding of **Sustained** against the officers who participated in his arrest, Sergeant Brock and Investigator Bridges. This Board further recommended that you impose a three day suspension on each of the two officers in order to address this violation. This recommendation was sent to you in a letter dated June 14, 2010. You responded by explaining that the matter was still under investigation at the Office of Professional Standards.

The Board reviewed the investigation into the complaints filed by Robert Kelley and Ernest Buehl on August 12, 2010 (*Complaints #09-36 & #09-38*). Mr. Kelley is an owner of the Eagle Bar and Mr. Buehl was working as a door man on the night of the arrest. Their complaints involve the use of abusive language by members of the Atlanta Police Department. Mr. Kelley alleged that he heard officers say the following:

1. When he asked about his rights, an officer responded, “you are a fag and you have no rights.”
2. When he and others asked why they were detained, they were told to, “shut the fuck up.”
3. He heard an officer say, “raiding a fag bar was fun and they should do this every week.”
4. He heard an officer threaten to hit a patron with a bar stool if he did not shut up.

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Mr. Buehl heard a customer asked about why he was being detained and an officer responded that, if he didn't put his head down and shut the fuck up, the officer was going to take a bar stool and knock him down.

Many of the fifteen (15) employees and patrons that were interviewed heard the same language.

The ACRB staff interviewed twenty-four (24) of the officers present. All of the officers denied using this type of language and all denied hearing another officer say the words reported. A series of photo arrays were viewed by Mr. Robert Kelley. He identified Officer Brandon Jackson, a member of the RED DOG Unit as one of the officers who uttered an obscenity. He additionally selected another officer who was not present at the Eagle Bar.

The Board considered all of the evidence. They voted to **sustain the allegation of abusive language**. All of the patrons and employees heard similar language. While it appears that Officer Jackson had some culpability, the Board was of the opinion that the supervisors should be held responsible for this type of conduct. The Board voted to hold their disciplinary recommendation in abeyance until they can get more information regarding the responsibility and knowledge of the supervisors.

The third group of complaints considered by the ACRB concerned the patrons of the Eagle Bar. The Board received nine (9) complaints from people who were present when the police arrived (*Complaints #09-34, #10-08, #10-09, #10-10, #10-11, #10-12, #10-13, #10-14, #10-15*). These nine complainants had no ties to the management of the bar and were not identified by officers as being involved in any criminal activity. They complained that they were subjected to abusive language and that they were falsely imprisoned. The investigation revealed that all of the patrons were placed on the floor. Many of the officers provided different estimates of the time that the patrons were detained varying from 10 minutes to one hour. Criminal record checks of all of the patrons commenced at 23:20 and ended at 23:49. Most of the patrons explained that they spent some time on the floor before being told to produce their identification. The patrons had their identities checked and were released after the officers completed that task. The officers indicated that they arrived at the bar between 10:45 p.m. and 11:00 p.m. Thus, the patrons were detained between 30 minutes to an hour, depending upon when their identification was checked. The twenty four police officers did not indicate that any of the patrons who made complaints committed an offense.

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The Board considered the evidence of **abusive language** and decided to **sustain** the complaint against the officers. The Board further decided to study and consider the supervisory responsibility concerning this issue before making a recommendation about discipline. Similarly, the Board voted to **sustain the allegation of unlawful imprisonment against all of the officers who were present**. It is uncontroverted that the police officers conducted a detention, if not an arrest, of the patrons. In order to detain a person, there must be objective facts establishing reasonable suspicion to believe the suspect was involved in criminal activity. The standard must be particularized; that is that you may not detain everyone in a bar because one person may have committed an offense. The detention must be “justified at its inception and reasonably, related in scope, to the circumstances which justified the interference in the first place.” U.S. v. Sharpe, 470 U. S. 675, 682 (1985).

This operation violated APD.SOP. 3020, Section 4.3.3 and the corresponding Fourth Amendment law, particularly with regard to the patrons of the bar since there was no articulable suspicion or probable cause to believe that the patrons committed or were about to commit a crime.

The Board has not made disciplinary recommendations regarding the complaints of Mr. Kelley and Mr. Buehl or the nine patrons. We are currently studying the role of supervisors and other violations of Standard Operating Procedures.

Please let me know if you have any concerns regarding this issue.

Sincerely,



Joy Morrissey
Board Chair

JM/mms

cc: Mayor Kasim Reed
Council President Caesar Mitchell
Honorable Members of City Council
ACRB Board Members