



**ATLANTA CITIZEN REVIEW BOARD
MINUTES OF THE LAST MEETING
OFFICIAL MINUTES**

March 11, 2010, 6:30 P.M.

55 Trinity Avenue, S.W., Committee Room Two, Atlanta, Georgia 30303

BOARD MEMBERS IN ATTENDANCE

JOY MORRISSEY (Chair/Morrissey); **RODERICK EDMOND** (*Edmond*) arrived 6:49 p.m.; **CHARIS JOHNSON** (*Johnson*) arrived 6:45 p.m.; **OWEN MONTAGUE** (*Montague*); **JOHN MICHAEL** (*Michael*); **ALAN MORRIS** (Morris); **SHARESE SHIELDS** (*Shields*); **MACEO WILLIAMS** (*Williams*)

BOARD MEMBERS ABSENT

SETH KIRSCHENBAUM (*Kirschenbaum*)
J.L. BOOKER (*Booker*)

STAFF ATTENDEES

MARC ADDINGTON, Investigator (*Addington*); **CRISTINA BEAMUD**, Executive Director (*Director/Beamud*); **SHEENA ROBERTSON**, Investigator (*Robertson/Transcriber*); **WILLIAM CASTINGS**, Board Legal Advisor, COA Law Department (*Castings*)

GUEST ATTENDEES:

Major Moses Perdue, Office of Professional Standards, Atlanta Police Department
Christine McDaniel
Michael Spooner
Pete Odum, McDaniel's Attorney

CALL TO ORDER

Chair Morrissey officiated the meeting. The meeting was called to order at 6:35 p.m.

A G E N D A

APPROVAL OF MINUTES OF THE LAST MEETING:

The *Chair* asked if there were any corrections to the minutes. There were no corrections noted. *Williams* moved to approve the Minutes for February 11, 2010. *Michael* seconded and the motion was approved.

ACTION ITEMS:

DISCUSSION OF INVESTIGATION #09-27 COMPLAINT:

Complaint #09-27 was filed July 23, 2009. A completed investigation was distributed to the Board on February 11, 2010.

A. SUMMARY OF COMPLAINT

Chair Morrissey read Beamud's memo summarizing the complaint into the record.

Complainant filed a formal complaint on July 23, 2009. She alleged that on July 18th and 19th she was falsely imprisoned by Detective Brian Anderson of the Atlanta Police Department.

Complainant explained that she was stopped by the Alpharetta Police for a traffic violation on July 18, 2009. She was told that there was an outstanding warrant for theft and was arrested by the Alpharetta Police Department. On July 19th, the Alpharetta Police Department transported her to the Fulton County Jail. According to Complainant, the Fulton County Jail would not accept custody of her because she did not have an active warrant in the system. The Alpharetta Officers transported her to the Municipal Jail where she was not accepted as a prisoner because she did not have a green ticket. An unidentified Atlanta Police Officer then issued a green ticket and she was transported back to the Fulton County Jail because the charge was a felony. Complainant complained to the staff and a staff member looked into the matter and found that the arrest warrant was invalid and arranged for her release.

Mr. Fenn Little was Complainant's attorney for the original larceny charge. He claims that he went to the Zone 2 precinct and spoke with Detective Anderson on July 18, 2009. Detective Anderson investigated the original case. He explained that he explained his client's situation and presented documents that the matter had been nolle-prossed by the Fulton County District Attorney on May 28, 2009. Mr. Little said that Detective Anderson told him that he did not give the prosecutor permission to nolle-pross the case and would not authorize Complainant's release from custody.

Detective Anderson was interviewed and stated that he received a phone call from Fenn Little on July 18, 2009. Mr. Little explained the problem and he said that he tried to locate Complainant on the computer system. He also tried to contact the District Attorney's Complaint room to locate the ADA who was assigned the case. He claims that he located the ADA's telephone number and attempted to contact him but there was no answer. He claims that Mr. Little became agitated and demanded that he go to the Alpharetta Police Department and have the Complainant released from custody. He claims that he told Mr. Little that he had done everything he could to assist him and that he had no verification that he represented Complainant. Later the same day, he explains that Mr. Little appeared at the Zone 2 office and he had another conversation with him. He denies that Mr. Little presented any of the documents and told him that there was nothing more he could do without speaking to the ADA assigned the case.

The investigation revealed that the original criminal charges were dismissed on July 18, 2009. The original warrant that was issued in August 2008 was never cancelled. It should have been cancelled on or about February 10, 2009 when the case was dismissed. This resulted in Complainant's arrest on July 18, 2009. This warrant should have been cancelled by the Fulton County Sheriff's Office.

Detective Anderson's version of the incident differs from Mr. Little's version of what occurred at the Zone 2 office. For this reason, the staff recommends that the allegation of false arrest against Detective Anderson be assigned the finding of "not sustained."

Morrissey opened up the floor for Board comments...

1. *Michael* stated that he believes that the lawyer might have had proper evidence but Anderson had already made his decision and he was not going to change it. *Michael* finds fault with the way Anderson handled the matter. Complainant should not have been put in jail.
2. *Williams* stated that it seems that they have been shopping her around. The Sheriff's Office did not do their job by cancelling the warrant.
3. *Morris* stated that this was sloppy police work.
4. *Michael* asked the investigator about Anderson's prior disciplinary history and if he was on the street and had a desk job in Alpharetta.
5. *Addington* stated that the officer was not in Alpharetta. She was picked up on a warrant that was in the GCIC system. Fulton County Sheriff by their own admission stated that they erred and should have cleared the warrant.
6. *Shields* stated that the problem she has with this case is that it involves an agency that is not within the Board's jurisdiction and it is clear that the Detective did not go the extra mile to help the complainant. *Shields* further stated that she is troubled by the case and can only imagine what the complainant must have felt being shuffled around like that. It's clear that the problem did not start with APD.
7. *Morrissey* stated that it is very unfortunate that this happened and agrees with *Shields*.

B. COMPLAINT RECOMMENDATION

Staff recommended that the Board vote to not sustain the allegation of False Imprisonment. It was moved by *Shields* to accept the recommendation of the staff. *Montague* seconded and the motion was approved.

DISCUSSION OF INVESTIGATION #09-04 COMPLAINT:

Complaint #09-04 was filed April 9, 2009. A completed investigation was distributed to the Board on February 11, 2010.

A. SUMMARY OF COMPLAINT

Chair Morrissey read *Beamud's* memo summarizing the complaint into the record.

The Complainant reported that on November 12, 2008 he was sitting on the porch of his parent's home when the two officers approached and asked to speak to him about previous burglaries in the area. He informed the officers that the house belonged to his parents and they were on private property. The officer told him that he looked out of place and Officer Gonzalez asked him a series of questions and requested his name and address. Complainant complied. Officer Harris went to the police car and returned and said that Complainant had an outstanding warrant. He was handcuffed and arrested. While in the back seat of the police car, Officer Harris reached into his own pocket, pulled out a bag and showed it to Complainant. He asked if it belonged to him. Complainant responded that it did not. The officers then transported him to the Pre-Trial Detention Center. Complainant said that he thought he was arrested on an outstanding arrest warrant; however, he was informed by a sergeant at the jail that he was arrested for possession of marijuana.

The ACRB investigation revealed that the Complainant was cited for the drug possession charge and that the officers conducted a record inquiry on the day of the arrest which did not reveal outstanding warrants. On December 28, 2009 Central Records reported they did not have a copy of the police report associated with this arrest. The investigator contacted Major Finley and on the following day received a copy of a police report. The report was dated December 29, 2009; more than a year after the incident. It indicated that it was a replacement report. The date of incident noted on the report was November 10, 2008 while the arrest was on November 12, 2008. The property report indicates that the bag of marijuana was turned into the property clerk on November 12, 2008. The audit of the record check performed indicates that the officers checked Complainant's criminal history on November 12, 2008. The report submitted by the officers contains a mistake on the date. However, there is no evidence to support that there was an original report. The Court dismissed the criminal case for lack of a police report.

Officers Gonzalez and Harris refused to submit to an interview.

Based on the aforementioned information, the staff of the ACRB recommends that the allegation of False Arrest be Not Sustained. However, it is noted that the officers failed to adequately perform their assigned duties by failing to complete a police report concerning this incident in a timely manner as required by APD SOP 4.2.21, 4.1.7 & 4.2.2.

Morrissey opened up the floor for Board comments...

1. **Edmond** wanted the record to reflect that he think this case stinks and disagreed with the staff's finding of not sustained.
2. **Michael** stated that if the complainant was really guilty they should have turned in a police report. He feels that the Board should look into this matter further.
3. **Edmond** stated that he understands how this complaint was not sustained for the allegation of excessive force but that the false arrest claim should be looked into further.
4. **Morrissey** stated that the Board should narrow its focus and stick to what they have. She stated that the Board should stick to the letter of the law and consistently work on addressing things that are SOP standards. **Morrissey** agrees that the officers did not act properly and does not understand why the police report was not written at that time.
5. **Williams** feels the Board needs to look into this case further.
6. **Morrissey** commented that she had a problem with the complainant being approached on private property.
7. **Morris** stated that the thing that bothers him the most was the officers' refusal to explain themselves. He does not see how they can continue to do this if they don't have the cooperation of the people they call for interviews. **Morris** stated that he can't support the staff recommendation neither can he say it should be supported. There is not enough information.
8. **Morrissey** asked the investigator if she has anything to add.
9. **Robertson** stated the reason for the case dismissal was not because it hinged upon the marijuana but because there was no police report.
10. **Michael** asked Robertson about the complainant's prior criminal record
11. **Robertson** responded that she did not have any information on complainant's criminal history.
12. **Edmond** stated that their job is to deal with the evidence that they were able to obtain. The complainant gave a sworn statement that he did not have marijuana. The police did not give a statement. He stated that the ordinance gives ACRB the power to investigate complaints. **Edmond** stated that based on the evidence, the complaint should be sustained.
13. **Beamud** clarified to the Board that this was never considered an excessive force case.
14. **Michael** commented that he does not understand and is bothered by the fact that the

officer would write a police report a year later with the wrong date.

15. **Shields** stated that she does not know the legal definition of false arrest but she does know that police officer can't arrest people without substantiating it with a report. Therefore, she doesn't understand how one can say that it is a valid arrest without a report.
16. **Beamud** read the ordinance's definition of false arrest into the record. False Arrest means 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.
17. **Williams** asked what would be the definition of making preparation to smoke.
18. **Robertson** stated that according to the police report, the officer observed the complaint putting the marijuana inside a blunt.
19. **Edmond** asked the investigator whether or not the police officer submitted the blunt as evidence.
20. **Robertson** stated that the inventory sheet indicated that the officer submitted a small clear bag of marijuana.
21. **Shields** asked the investigator about what happened with the outstanding warrant.
22. **Robertson** answered that there was no warrant.
23. **Morrissey** commented that a lot of the Board's questions would have been answered if the officers had submitted to interviews.
24. **Shields** stated that she does not think this is a case where because they don't have the officers side of the story that the Board should give them the benefit of the doubt. She stated that this case does not pass the smell test and there is a lot wrong with it.
25. **Morrissey** stated that she is very disappointed and the Board can't do their job because no one is helping them.

B. COMPLAINANT RECOMMENDATION

Following the discussion, it was moved by **Edmond** to not accept the recommendation of the staff and to sustain the allegation of False Arrest. **Michael** seconded. The Motion was approved.

D. DISCIPLINE RECOMMENDATION

After the vote was adopted, *Chair Morrissey* turned the discussion to recommending discipline.

Beamud stated that she would look into the disciplinary history of the officers and report back to the board at the next meeting.

DISCUSSION OF DISCIPLINE RECOMMENDATION FOR #09-13 COMPLAINT:

A copy of the Director's memo of Officer Brandy Dolson's disciplinary history was distributed to each member present.

Morrissey gave a brief summary of the case and opened the discussion to the Board to determine the appropriate penalty to be imposed upon the officer.

Following the discussion, it was moved by *Shields* to recommend a fifteen (15) day suspension and referral to EAP for psychological evaluation. Motion was seconded by *Michael Williams* and *Montague* opposed. Motion approved.

REPORT ON MEDIA OUTREACH:

Following a discussion, it was moved by *Michael* for the Board to meet with the Executive Committee of the Atlanta Planning Advisory Board (APAB) at their next available date to define what the ACRB does and discuss how they can move forward and work together with APAB. Motion was seconded by *Shields* and the motion was approved.

Shields also made a motion to resurrect the public outreach committee that the Board had at its inception. Motion was approved by all.

INTAKE REPORT:

A copy of the Director's Intake Report was distributed to each member present.

Beamud reported that the office received four new complaints for the month of February and made appropriate recommendations on each.

It was moved by *Montague* to accept the Executive Director's report. *Morris* seconded and the motion was approved.

EXECUTIVE DIRECTOR'S REPORT:

A copy of the Director's report was distributed to each member present. *Beamud* reported the following:

A. BUDGET

Beamud reported that she had some budget meetings with the mayor's office and their budget staff and they proposed to cut ACRB's budget by 10%. *Beamud* stated that she objected and asked ACRB's budget person to include an increase of 10% rather than a reduction of that amount. However, *Beamud* added that the 10% increase is still not enough.

Beamud stated that the Board needs to consider hiring a communication person who can assist with the preparation of reports, maintaining the website, etc... *Beamud* stated that if they do not then she is going to have to modify what the Board wants done because the staff is consumed with complaint processing and producing reports for the monthly meetings.

Beamud added that although the Mayor has publicly said that he is going to meet with ACRB, she stated that she has not heard from him.

Morrissey reminded the Board to get in touch with their city council person and inform them about ACRB's problems with the Atlanta police and the officers not interviewing but especially about ACRB's budget issues.

B. OFFICER INTERVIEWS

Morrissey read a statement from *Shields* into the record.

"On the issue of strategy for dealing with the police chief's refusal to discipline officers who failed to appear for substantive interviews and cooperate with ACRB, I think the Board needs to take a very firm stance publicly on the matter which could include announcing the resignation of the Board members...if we continue to be meet with opposition by the APD."

PUBLIC COMMENTS:

There were no public comments.

ADJOURNMENT:

The Chair entertained a motion to adjourn. *Shields* moved to adjourn and *Montague* seconded. Motion approved. Meeting adjourned at 8:26 p.m.