



ATLANTA CITIZEN REVIEW BOARD

MINUTES OF THE LAST MEETING

DECEMBER 9, 2010, 6:30 PM

55 TRINITY AVENUE, S.W., COMMITTEE ROOM TWO, ATLANTA, GEORGIA 30303

ROLL CALL

Members Present

PAUL BARTELS
BARBARA HUBBARD (*Hubbard*)
OWEN MONTAGUE (*Montague*)
CHARIS JOHNSON (*C Johnson*)
RYAN JOHNSON (*R Johnson*)
ALAN MORRIS (*Morris*)
JOY MORRISSEY (*Chair/Morrissey*)
SHARESE SHIELDS (*Shields*)
MACEO WILLIAMS (*Williams*)

Members Absent

RODERICK EDMOND (*Edmond*)

One Vacant Appointments to the Board
Atlanta City Council President's Office

STAFF ATTENDEES

MARC ADDINGTON, Investigator (*Addington*); **CRISTINA BEAMUD**, Executive Director (*Director/Beamud*); **SHEENA ROBERTSON**, Investigator (*Robertson*); **MYOLA SMITH**, Administrative Analyst (*Smith/Transcriber*)

GUEST: Lieutenant Sharonne Steed, APD, Office of Professional Standards; Major Elder Dancy, Commander, APD, Office of Professional Standards.

MEETING CALLED TO ORDER:

The meeting was called to order at 6:31 PM. The *Chair* called the roll and asked each member to state their name and the agency that appointed them to the Board. Following roll-call, all guest, citizens and members of the Atlanta Police Department were welcomed by *Chair Morrissey*.

A G E N D A

APPROVAL OF MNUTES OF THE LAST MEETING:

The *Chair* entertained a motion to approve the minutes of the last meeting held November 11, 2010. It was moved by *Montague* to accept the minutes for November 11, 2010 Board meeting. The motion was seconded by *Morris*. No discussion. The motion was approved.

ACTION ITEMS:

CONSIDERATION OF INVESTIGATION 09-01 – SHOOTING OF PIERRE GEORGE

(Agenda Item III)

The *Chair* directed members to Agenda Item III, *Director Beamud's* memo to the Board dated December 2, 2010 summarizing the investigation of Complaint #09-01. *Beamud* provided oral remarks regarding the complaint.

A. SUMMARY OF COMPLAINT

Beamud stated that last month, the Board received a folder containing the investigation that she conducted in terms of the complaint filed by Ms. Alma George against Officer Figueroa of the Atlanta Police Department (APD) regarding the shooting death of her son, Pierre George. “Initially, Ms. George did not allege excessive force she just wanted to have more information regarding what happened to her son. The Board has authority to investigate all cases that result in death on the part of a citizen of the City of Atlanta. Eventually, Ms. George did file a timely complaint and we set out to investigate the complaint. At the time, we initiated the complaint, we requested materials from APD concerning the investigation of this homicide and they refused to give us the materials. Subsequently, a subpoena was issued and in June, 2009 a homicide investigation was conducted pursuant to this incident.”

B. WHAT THE INVESTIGATION REVEALED

Beamud reported, “In the preliminary parts of this, I reviewed the homicide investigation that was conducted by members of the Homicide Unit of APD and many of these interviews were recorded on either video or audio recordings and the substance of the interviews appear in the report. However, essentially what happened, Jesus Galarza called the police on December 18, 2008. He reported to the police, via a 911 recorded line, that he was being kidnapped and was in the backseat of a maroon color vehicle in the area Cheshire Bridge Road. The dispatcher took the information and tried to connect with a translator because Mr. Galarza’s English was very poor. She did connect with a translator, but at some point the call was dropped or lost during the conversation. During the course of the conversation with the 911 operator, Mr. Galarza was specifically asked whether or not the person who had kidnapped him was armed. At that time, Galarza said, ‘I don’t know.’ In order to further facilitate the investigation of this matter, the 911 operator gave Mr. Galarza’s cell phone number to Officer Figueroa who was out on the road in the Cheshire Bridge area and who is also Spanish speaking. Officer Figueroa called Mr. Galarza a number of times; however, they were only able to speak twice. Cell phone records verify the calls. Officer Figueroa reports that during one of the conversations with Mr. Galarza, he stated that Pierre George, the African American man driving the maroon car, was armed...the opposite of what was told to the 911 Operator. I think that this was probably the most important feature of this investigation is what information did the officer reasonably believe at the time he made this stop. Since it was not a recorded conversation, it was important to confirm that. We tried to interview Mr. Galarza but could not location him for a long time. Eventually, he was located because he had been arrested. The District Attorney had conducted his own investigation and had determined that Mr. Galarza had lied when he told Officer Figueroa that Mr. George was armed. Mr. Galarza admitted that he had lied and he was charged with Involuntary Manslaughter. When I went to confirm that information, Galarza’s attorney would not allow me to speak with her client. Therefore, I had to wait until Mr. Galarza’s case was deposed. Ms. Alma George accompanied me to court a number of times anticipating a plea because that’s what they said they were going to do. Eventually, Mr. Galarza did plead guilty to Involuntary Manslaughter and he recited what had happened and he admitted that he stated that Mr. George had a gun. The judge asked him why he would do such a thing and his explanation was that he under the influence of drugs and didn’t appreciate the consequences of what he was saying.”

“The interview with John Wright, a passenger in the car driven by Pierre George, confirmed that the officer stopped the car on Cheshire Bridge Road. He said Mr. George got out of the car and refused to comply with the Officer’s orders to put his hands up and get on the ground. Officer Figueroa then shot him once but he was able to run. Eventually, Mr. George collapsed and died on Cheshire Bridge Road in the arms of his mother, Alma George.”

“Mr. Galarza and Mr. Wright were brought into police custody. They were interviewed and the tapes were made available to us for review. Because of the legal standard involved with the use of deadly force, I recommended in the report, that the use of Deadly Force be exonerated as to Officer Figueroa. However, it appeared to me at the time and during the investigation that there were many tactical decisions that were made during the course of this investigation and the stop of this car that did not comport with best police practices. The SOPs in Atlanta require Officers in similar situation to conduct a felony stop. A *felony stop* is a stop that is conducted with the assistance of more than one officer. Rather than the officer approaching the suspect’s car or armed person, they are instructed to have the suspect come out of the car with their hands up and then get down on the ground in a manner that maintains the safety of both the officer, as well as, the suspect.”

C. ELITE PERFORMANCE AUDIT REPORT

“In order to insure that I was recommending procedures that were in lined with best practices, I hired an auditor from the L.A. Police Department to look at the homicide. This is where the Board may want to focus its attention, because when you read the report, you will see that they did an audit of the information that they received. Elite made recommendations that include that the shooting itself should be Exonerated; however, APD should consider training in tactical issue from which the Police Department and other police officers could learn from. Many police departments have adopted procedures that examine all police shootings from a tactical perspective in order to learn, improve training and minimize the risk to officers, as well as, the public. They frequently apply the decision making model and, there is no indication, in review of the OPS file or the Homicide file, that anyone asked Officer Figueroa why he stopped that car alone and why he did not conduct a standard felony stop and why he approached the drivers’ side part of the car without having any assistance. The consultant also criticized the fact that they waited until December 21 before conducting the interview with the officer (*shooting occurred on December 18th*). They also criticized that there was nothing in the file to indicate that of the many witnesses that were interviewed that were at the Waffle House, no one was advised that they were not being detained—free to go and arrange for a interview in the future. When this issue has arisen after a police shooting, the witnesses are taken into custody and not allowed to leave. Most jurisdiction have developed protocols to avoid allegations of unlawful imprisoned and or arrest. Those people in the Waffle House should have been given some options. If it was not convenient to be interviewed at the time, they should have been able to make arrangements to be interviewed at another time. There was also a situation where they reported, based on the record and photography #6 in board packet, that in conformance with good investigatory practices, investigators conducting officer involved shooting investigations, should collect and preserve all appropriate evidence. What the consultants found was that Sergeant Vazquez reported that he observed what appeared to be a blood pooled in the east side of the Waffle House parking lot near the public telephone booth. The crime scene continued to Cheshire Bridge Road where he observed a red skull cap near the deceased. He also further observed what appeared to be a crack pipe; however, there was no indication that the pipe had been submitted as evidence on the inventory report. The consultants agreed with my assessment that the officer did not comply with the policy manual which indicates that an officer needs to conduct a felony stop when stopping a car in similar circumstances. Also, they agreed with the perspective that either the Homicide Unit or the OPS Unit should have asked the officer why he did not wait for back-up and continued to approach the suspect’s vehicle. They view this as an opportunity to improve and correct the way Police do their business.”

D. STAFF RECOMMENDATION

Regarding Complaint #09-01/Shooting of Pierre George, the staff recommends a finding of **'Exonerated'**

Following **Beamud's** oral summary she introduced Ms. Alma George, mother of Pierre George. , **Chair Morrissey** welcomed Ms. George. The Board was then asked to consider the information and the floor was open for discussion.

Discussion/Questions...

1. **Bartels** asked, "When there is an officer involved shooting, is there a standard department policy and procedure for the time period to interview the officer and witnesses?" **Beamud** answered that she didn't see anything specific. **Bartels** stated that it seems that if an officer is involved in a shooting, there need to be time limit and ideally, right away that the officers and witnesses are interviewed"
2. The **Chair** recognized Lieutenant Sharonne Steed. She said, "There is no specific policy. It varies from waiting 24 to 72 hours before you interview because of the stress the officer was under. Some other studies and the International Association of Police say you should interview them immediately. Atlanta Police Department does not have a specific policy."
3. Adding to Lt. Steed's comments, **Beamud** stated that there have been studies that have not been verified, usually performed by police organizations that say that a person's memory is affected by the stress. I believe this probably true and it improves once you able to calm down. But the only flaw in that thinking is that it has not been verified that that is entirely true. My perspective is that if a citizen was involved in a justifiable homicide, such as a person shooting an intruder who came into his home, would they let the citizen come back in 72 hours and explain what happened?" If that is true, why not allow all the witnesses to leave and come back within 72 hours and their memories will be better. It is possible that their memories are better, but on the other hand there is nothing to stop OPS or Homicide from interviewing after an incident happens and if the Officer remembers something in a couple of days that he didn't remember, he can come back.
4. **Bartels** added that in a shooting, usually, there is physical evidence.
5. **Morris** asked if the report, from the consultant (Elite Performance), was shared with the Chief. **Beamud** stated that the report had been shared with a member of his staff and the final report will be sent to him.

E. BOARD VOTE REGARDING STAFF RECOMMENDATION

The **Chair** entertained a motion to accept the staff's recommendation regarding Complaint #09-01. It was moved by **Morris** to accept the recommendation of the staff to **Exonerate** Officer Figueroa. **Bartels** seconded the motion. Hearing no discussion, the motion was approved.

Following the vote, **Chair Morrissey** took a moment to expressed condolences to Ms. George for the lost of her son Pierre. "I am so very, very sorry that you lost your son. I wished that we could do more for you, but within the scope of our abilities, please know that we take this very much to heart and we hope that the Atlanta Police Department does as well because there are tactical concerns here for which I believe they could do a better job. Once again I am very, very sorry for your lost. Thank you for being here."

CONSIDERATION OF INVESTIGATION 10-04 – COMPLAINT OF JULIUS RAWLS

(Agenda Item IV)

The *Chair* directed members to Agenda Item IV, *Director Beamud's* memo dated December 3, 2010 summarizing the investigation of Complaint #10-04. *Investigator Addington* was asked by the *Chair* for an oral overview of the complaint.

A. SUMMARY OF COMPLAINT

Investigator Addington reported that case #10-04 is based on allegations by Mr. Julius Rawls alleging excessive force against Officer Charles Yacuone.

Addington reported, "ACRB Case #10-04 filed timely by Mr. Julius Rawls on February 16, 2010 regarding an allegation of excessive force by members of the Atlanta Police when he was taken into custody. The incident occurred on September 12, 2009.

"An interview was conducted with Mr. Rawls while he was in the custody of the Georgia Department of Corrections in Jackson, Georgia. Mr. Rawls had been arrested for a narcotics violation that originated his complaint of the excessive force. During the interview, Mr. Rawls indicated that he was walking through a parking lot of a gas station on the corner of Donald Lee Hollowell Parkway and Harwell Road when he was approached by two Atlanta Police cars that contained about four officers. He stated that the officers exited the vehicles and approached him and ordered him to put his hands behind his back. According to Rawls, he held up his hands and the officers handcuffed him, threw him on the ground and struck him in the head and face. He could not identify which of the officers struck him because he was stunned. He was treated at Grady Hospital and the medical records indicate that Mr. Rawls suffered a contusion to this right eye orbital and no documented fractures. He was treated with medication and released to the Fulton County Jail. Mr. Rawls indicated that the officers told him that he was being placed in custody for selling crack cocaine. At the time of the interview, Mr. Rawls indicated that were two witnesses to the incident by the name of Carlos and Robert. He could not identify them by their last name but he said that Witness Robert worked at a restaurant that was located in the parking lot of the business at the intersection of Hollowell and Harwell."

B. WHAT THE INVESTIGATION REVEALED

Addington reported, "APD's report regarding the incident was obtained by ACRB. The report was completed by APD Officer Charles Yacuone who participated in the arrest of Mr. Rawls. In his report, Officer Yacuone indicated that he was part of an undercover narcotic operation at the Hollowell Parkway and Harwell Road intersection. He reported that an individual approached Mr. Rawls in an attempt to purchase crack cocaine. Mr. Rawls indicated to the individual that he could get the cocaine. The officers observe the individual secured the rock cocaine from Mr. Rawls and returned it to the police. At this time, the takedown team of Officer Malecki and Officer Johnson were called to the scene where they attempted to confront Mr. Rawls and take him into custody. According to Officer Yacuone they approached Mr. Rawls and ordered him to place his hands behind his back and he resisted arrest. Officer Yacuone indicated that Officer Malecki grabbed Mr. Rawls but he continued to resist arrest. They took him to the ground, handcuffed him. In the report, Officer Yacuone indicates that Mr. Rawls suffered an injury to his right eye which he thought might have been sustained when Mr. Rawls was taken down to the ground where the terrain contained rocks. An ambulance was called due to the injury and also because they believed that Mr. Rawls ingested the cocaine that he had in his possession."

"Besides Officer Yacuone, there were three officers at the location: Officers Pete Malecki, William Johnston and Charles Olson. All the officers were interviewed with the exception of Officer Olson, who is currently on military deployment. Interviews with the officers produce the

same pattern of events. They all established that they were working in undercover operation at the location when they attempted to take Mr. Rawls into custody; he resisted their attempts and they took him to the ground, and he swallowed the cocaine while they were at the location.”

Addington reported that he interviewed Robert Jenkins, one of the witness mentioned by Mr. Rawls who observed the incident. “Mr. Jenkins indicated that he observed two officers approach Mr. Rawls and they tried to handcuff him. Mr. Rawls fell to the ground. Mr. Jenkins said he heard Mr. Rawls ask the officers why he was detained, but he (*Jenkins*) did not see Mr. Rawls attempt to flee or strike the officers. Mr. Jenkins did not see the entire interaction because he was working; however, he did see Mr. Rawls and the officer fall to the ground and roll down the embankment. Mr. Jenkins took me to the slope where the officers and Mr. Rawls had fallen and there were numerous small rocks. Regarding Witness Carlos, we were unable to locate him. ”

“Medical Records were obtained as part of the investigation and the records indicate that Mr. Rawls did suffer a contusion and swelling to his right eye, but there was no fracture to the location. Also, a Use of Force Report was completed by the supervisor at the location. His review of the incident, after interviewing the officers, basically produce the same fact finds that the officers stated when interviewed by staff. The supervisor found the actions by Officers Johnson and Malecki to be justified and that they acted within the guidelines of APD Use of Force.”

C. STAFF RECOMMENDATION

Addington stated that based on the available evidence and information gathered regarding Complaint #10-04, the staff recommends that the allegation of Excessive Force against the involved officers be Not Sustained.

D. BOARD VOTE REGARDING STAFF RECOMMENDATION

At the conclusion of **Addington's** overview, regarding Complaint #10-04, the **Chair** entertained a motion to accept the staff's recommendation. It was moved by **Williams** that the Board accept the recommendation of the staff to **Not Sustain** the allegation of Excessive Force. **Morris** seconded the motion.

Discussion...

1. **R. Johnson** stated that according to APD's SOP, the Training Section will review all Use of Force Reports. He asked, “In this case, did the Training Section get a copy of this?” **Addington** stated that he could not answer with certainty but he would assume that Training did get a copy because their procedure states that they are suppose to get a copy, but he was unable to confirm if it happened or not. “This is something I cannot confirm. When we get reports, they come from the requisite department or OPS. We don't get records directly from the Training Section so it would be hard for me to verify if they actually received a copy.”
2. According to **Lt. Sharonne Steed**, “Our policy, once we go through the officer chain of command, is to send the original to Central Records where a log number would be assigned and from there, copies to OPS and Training. Therefore, Training should have also gotten that Report.”

No further discussion, the motion to **Not Sustain**, as recommended by the staff, was approved unanimously.

INTAKE REPORT (*Agenda Item VI*)

A copy of the Intake Report was included in the Board packets. **Director Beamud** reported that the office received five (5) complaints for the month of November 2010:

The complaints are:

- #10-62 / Complainant: Jonathan Hairston / Allegation: Harassment
Recommendation: The allegations do not fall within the Board's jurisdiction. Staff recommends dismissal.

- #10-63 / Complainant: Robert H. Miller / Allegation: False Arrest
Recommendation: Staff recommends that the complaint be dismissed because it is beyond the 180 day limitation period.

- #10-64 / Complainant: Antoine Willingham / Allegation: False Arrest
Recommendation: Staff recommends that this matter be investigated as a complaint of false arrest if and when the criminal allegations are adjudicated in Mr. Willingham's favor. The court date is set for December 8, 2010.

- #10-65 / Complainant: Teri Stewart / Allegation: Unsatisfactory Service
Recommendation: Mr. Stewart was sent a complaint form but has not returned the form. Staff recommends that this matter be dismissed for lack of a signed complaint and because this complaint does not fall within the Board's jurisdiction.

- #10-66 / Complainant: Cynthia Wilkins / Allegation: Excessive Force
Recommendation: This complaint will probably turn into two complaints. Ms. Wilkins plans to file a complaint of Excessive Force on behalf of her 16 and 22 year old sons. The 22 year old son was arrested and currently, still in jail awaiting a court hearing for December 3, 2010. Ms. Wilkins signed a complaint form for her 16 year old son and staff recommends investigation as an excessive force complaint.

The **Chair** accepted the **Director's** Intake report.

REQUEST FOR SUBPOENA: (*Agenda Item VII*)

The **Chair** directed the Board's attention to **Investigator Addington** memo dated December 9, 2010 regarding ACRB Investigative Report #10-57. She asked the Investigator to provide a brief summary.

A. SUMMARY OF THE REQUEST

Addington explained, "This is a matter of a case that we are currently investigating involving allegations of excessive force by Mr. Melvin Burns. On September 30, 2010, the ACRB received a signed complaint form from Mr. Burns alleging excessive force that occurred during an arrest by members of the APD Red Dog Unit on September 23, 2010. Mr. Burns alleges that officers used excessive force by kicking and hitting him after he was handcuffed and lying on the ground. As a result, Mr. Burns sought medical treatment for injuries he sustained from this incident on September 23, 2010 at South Fulton Medical Center in East Point, Georgia. Generally, we have a relationship with Grady Medical Center, where we are able get records freely from them with a signed complaint. However, since Mr. Burns was treated at South Fulton Medical Center, they require more information, has a longer procedure and we have to pay for the records unless, we

have a subpoena. Accordingly, the ACRB staff respectfully requests the Board issue a subpoena for the production of said records from the hospital.”

B. BOARD VOTE REGARDING THE REQUEST TO SUBPOENA

Chair Morrissey entertained a motion to accept the staff recommendation to get a subpoena. It was moved by **Morris** and seconded by **Bartels**. No discussion. The motion was approved.

DISCUSSION REGARDING RECOMMENDATIONS TO THE CHIEF OF POLICE:

(Agenda Item VII)

The **Chair** asked **Beamud** to walk the Board through the list of correspondence sent to Chief Turner. Included in the Board’s packet were five letters addressed to the Chief regarding specific complaints. On November 19, **Beamud** sent a letter to Chief Turner summarizing concerns about four adjudications and recommendations that were sent to him which have not been provided a response as required by the ordinance despite a number of reminders:

- The first case #09-04 / Deontaye Harris and Luis Gonzales was sent to the Chief on April 14, 2010 sustaining an allegation of false arrest.
- The second case #10-16 / David Shepherd involved the Eagle Raid but handled separately, because Mr. Shepherd alleged that he was arrested in his home and without a warrant by officers who were involved in the raid. The Board recommended that the allegation of False Arrest be sustained against Sergeant John Brock and Investigator Bennie Bridges. This recommendation was sent to the Chief June 30, 2010.
- The third case involves an allegation of excessive force made by a juvenile, case #10-20. The recommendation was mailed August 16, 2010; however, a response was received today and we fine with that one.
- The fourth and final disposition that is overdue is the adjudication of the complaint by Domice Irving, case #10-07. The Board recommended that the allegation of false arrest against Detective Andrew Silberman be sustained. This recommendation was mailed on September 13, 2010.

Beamud asked the Board to decide what they would like to do regarding the overdue responses. **Morrissey** said, “As **Chair**, I am going to ask the Board to suspend discussion for now and move on to the next agenda item, Public Comments, and following Public Comments, go into Executive Session.”

It should be noted that going into Executive Session, the Board would be able to exempt this discussion from the Open Meeting Act by virtue of the fact that there may be a discussion of potential litigation.

It moved by **C. Johnson** to suspend the agenda and move to Public Comments. The motion was seconded by **Williams**. No discussion. The motion was approved.

PUBLIC COMMENTS: *(Agenda Item VIII)*

Chair Morrissey opened the floor for public comments.

There was one guest speaker, Ms. Alma George, mother of Pierre George / Case #09-01.

Ms. George said, “Pierre was my only son and I still just don’t know what happen. I think about him each and every day and I will never ever be the same. I miss him so much. Thank you.”

Chair Morrissey thanked Mr. George for coming and speaking to members of the Board. Again she expressed deep sympathy on behalf of the Board.

MOTION TO GO INTO EXECUTIVE SESSION:

The *Chair* entertained a motion to go into Executive Session. It was moved by *Morris* to go into Executive Session; seconded by *R. Johnson*. The motion was approved.

At 7:25 pm, it should be noted that the Chair asked everyone to clear the room with the exception of the Board's attorney who was asked to remain to provide consultation pertaining to pending or threaten litigation pursuant to OCGA 50-14-2.

END OF EXECUTIVE SESSION AT 7:35PM:

The *Chair* entertained a motion to end Executive Session. It was moved by *Williams* to end Executive Session. The motion was seconded by *Morris*. No discussion. The motion was approved.

The *Chair* entertained another motion. It was moved by *Morris* that the Board subpoena Chief George Turner to appear at the next special Board Meeting for the purpose of failure to comply with the ordinance. The motion was seconded by *Williams*. No discussion. The motion was approved.

SPECIAL ANNOUNCEMENT:

Chair Morrissey announced a holiday dinner was being served in Committee Room One for members of the Board and invited guest.

ADJOURNMENT:

The *Chair* entertained a motion to adjourn. *Morris* moved to adjourn and *C. Johnson* seconded. The meeting adjourned at 7:41 p.m.

Approved as to form and content,

Charis Johnson
Board Secretary,



Signature

Date: 12/09/2010