

Approved

11/9/2017



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

October 12, 2017

2nd Floor Atrium, Committee Room One
Atlanta, Georgia 30303
404-865-8622
6:30 p.m.

The September 2017 meeting was called to order at 6:31 p.m. by *Vice Chair Brogdon*.

AGENDA

ROLL CALL

(The ACRB has thirteen members)

ACTIVE MEMBERS PRESENT

GINO BROGDON <i>(Vice Chair Brogdon)</i>	TRACEE MCDANIEL <i>(McDaniel)</i>
PAUL BARTELS <i>((Secretary/Bartels)</i>	TAMARA ORANGE <i>(Orange)</i>
BILL BOZARTH <i>(Bozarth)</i>	SHUNTAY PITRE <i>(Pitre)</i>
CECILIA HOUSTON-TORRENCE <i>(Houston-Torrence)</i>	

ACTIVE MEMBERS ABSENT

SHERRY WILLIAMS *(Chair Williams)*
MICHAEL HOPKINS *(Hopkins)*

VACANT BOARD SEATS

Atlanta City Council, *(four (4) months)*
Atlanta Business League *(four (3) months)*
APAB-NPU, Group M-R *(eight (8) months)*
City Council President *(1 year and four (4) months)*

STAFF & CITY EMPLOYEES ATTENDEES

SAMUEL LEE REID, Executive Director *(Reid)*; **SHEENA ROBERTSON**, Investigation Manager *(Investigator Robertson)*; **MYOLA SMITH**, Project Manager *(Smith/Transcriber)*; **BRIAN FLEMING**, Investigator, Sr., *(Investigator Fleming)*; **KABRAL BRATHWAITE**, Investigator, Sr., *(Investigator Brathwaite)*; **LYNN GARRETT**, Executive Assistant *(Garrett/Transcriber)*; **MELISA REESE**;

Administrative Assistant (*Reese*) **REGINALD MCCLENDON**, COA Law Department, (*McClendon*),
LIEUTENANT SCOTT BENNETT, Atlanta Police Department, (*Lt. Bennett*)

APPROVAL OF MINUTES FOR SEPTEMBER 14, 2017

Houston-Torrence moved to adopt the minutes as corrected. *McDaniel* seconded. Hearing no discussion, the motion was approved.

EXECUTIVE DIRECTOR'S REPORT

The Board received a copy of the ED's report in advance of the meeting. The following highlights were reported on by *Director Reid*:

- Congratulations to Shuntay Pitre
Board Member Shuntay Pitre graduated from the APD Citizen Academy on September 26, 2017. Thank you for the time commitment.

Remember, the APD Citizen Academy is required training for all board members. If you have not attended the training, please attend the next scheduled training, which should be next spring.
- Congratulations to Michael Hopkins
Board Member Michael Hopkins was sworn in on September 7, 2017.
- Video Replay of August 19th Board Training
For those who missed the training on August 19th, please contact the office to attend a replay of the training or schedule a time to attend an individual training. The training is four hours long. So far, four board members have completed the training.
- ACRB Third Mediation Complaint
We successfully mediated our third complaint today.
- Community Mediation Presentations
If you know of any organizations, individuals, groups, or locations that we can conduct mediation presentations, please do not hesitate to let staff know. We are trying to spread the word about mediation to everyone.
- 2017 Art and Essay Contest Award and Recognition Ceremony
On Monday, September 18, 2017, the Atlanta City Council recognized the ACRB 2017 Art and Essay Contest Winners.

We had a great representation from the winners and their families. The winners were presented their awards during a reception where their creative expressions were displayed.
- Mediation Presentation to Georgia Coalition of People's Agenda
On Tuesday, October 3rd, the ACRB made a presentation to the People's Agenda.
- Reports to Appointing Entities
This is a friendly reminder for board members to submit their reports to their appointing entities. Thank you.
- Mediations
We have three (3) mediations scheduled during the week of October 8th (Monday, Thursday and Friday).

- Mediation Brochures

We recently provided board members e-copies of the Mediation and Mediation FAQ brochures. Please share the brochures with your contacts.

A few weeks ago, we provided each city council member with 25 mediation brochures. We requested that the council members include the brochures with their materials for their constituents.

- Community Outreach Highlights

See attached.

- Civil Action Policy Update

A couple of months ago, the board reviewed a complaint involving the APD's Civil Action Policy where the board had a lengthy discussion concerning the policy, changes to the policy, and whether APD officers in the field were expected to follow the policy. After the meeting, staff wrote a letter to the APD OPS to inquire about the policy and whether the APD had an expectation that officers were to adhere to the policy.

We received a letter from APD clarifying the APD's expectation that officers adhere to the Civil Action Policy. The files associated with the ACRB complaint were reopened to include the charge that the ACRB investigated. The letter also provide that the Office of Professional Standards will develop Roll Call training, which will include OPS investigators visiting all precincts, and refreshing personnel on civil action policy.

Discussion and Comments...

1. **(Brogdon)** *You mentioned something about getting this to our contacts. What did you mean and what type of contacts do we give this information to?*
2. **(Reid)** *Referring to the mediation brochures, for example, providing the Gate City Bar with some of the information. Whatever contacts you think would be appropriate, just share it with them. We are sending out letters to all the churches and the NPUs organizations and community service organizations and trying to line up presentations for those groups so we can spread the word. We are hoping that you can really help us do that. And the last thing I want to talk about is, the art and essay presentation that was given at the City Council on September 18th. The winners were recognized and that was a really nice thing. One other thing, when you reviewed the ED report there was a section about the civil action policy update, did anyone get a chance to read that? It was related to a case that we had in August with an officer getting involved **in a civil action**. Well, we have clarification that the APD does require their officers to, adhere to the policy and in fact they are going to be looking at it again including the case that we worked on and going out to the field, to the precincts, and reminding the officers that they need to adhere to that policy.*
3. **(Bozarth)** *In the ED report, there is a new member on the board? I guess that he is not here tonight?*
4. **(Reid)** *Yes, Michael Hopkins, who was sworn in on September 7, and he's not here tonight.*
5. **(Bozarth)** *Am I correct he represents, the NPUs, on the lower part of the alphabet?*
6. **(Reid)** *Yes. Basically, through S and Z.*

INTAKE REPORT FOR SEPTEMBER 2017

Investigation Manager **Robertson** reported that for the month of September 2017, the ACRB received eight (8) complaints, however, two (2) of those complaints have been referred for mediation if the mediation does not fall through or not successful, then recommend investigating those complaints under the allegation category assigned to them.

A. COMPLAINT BREAKDOWN AND STAFF RECOMMENDATIONS

The ACRB staff is seeking approval to possibly dismiss two (2) of the eight (8) complaints. Three (3) complaints are waiting for signatures and there is one (1) signed complaint for investigation. It should be noted that the proper referrals were given to those citizens whose complaints fell outside of ACRB's jurisdiction.

The following is a list of the complaints that are being recommended for dismissal and the reason for the recommendation:

1. ACRB Case No. 17-118– Failure to Complete Accident Report
The Complainant alleges that the APD officer that responded to an auto accident involving him and another motorist went on vacation without completing the Accident Report. The Complainant wanted to wait on the officer's return from his vacation to see if the officer will complete the report before filing a formal complaint. **Recommend dismissal because issue has been resolved.**
2. ACRB Case No. 17-123– Inaccurate Information on Report
The Complainant alleges that the APD officer that responded to an auto accident involving her and another motorist that occurred on May 17, 2017, put incorrect information on the accident report. **Recommend dismissal for lack of jurisdiction because involved a traffic dispute that needs to be resolved in the courts.**

Awaiting Signed Complaints:

1. ACRB 17-117 – Inappropriate Conduct & Refusal to File Report
The Complainant alleges that on August 15, 2017, the APD officers that arrested him cut off the cameras that were located inside and outside his residence. He further alleges that he was denied the right to file a missing person report of his child's mother.
Awaiting the Complainant's signed complaint. If the signed complaint is received within the next few weeks and the complaint has merit, recommend investigation as a conduct and appropriate action required complaint.
2. ACRB Case No. 17-119– False Arrest
The Complainant alleges that on September 13, 2017, her son was falsely arrested by APD officers. The Complainant did not witness the incident and was advised that her son needed to file the complaint.
Awaiting the Complainant's signed complaint. If the signed complaint is received within the next few weeks and the complaint has merit, recommend investigation as an appropriate action required complaint.
3. ACRB Case No. 17-120– Harassment
The Complainant alleges that an APD officer is harassing him and friends. **Awaiting the Complainant's signed complaint. If the signed complaint is received within the next few weeks and the complaint has merit, then recommend investigation as a harassment complaint.**

Investigation recommendations:

1. ACRB Case No. 17-116 – False Imprisonment & Appropriate Action Required
The Complainant alleges that on August 31, 2017, she was unlawfully pulled over and detained for not wearing a seatbelt by an APD officer. She stated that she was not issued a ticket. She further alleges that the officer refused to provide his name and badge number. **Recommend investigation as a false imprisonment and appropriate action required complaint.**

Reconsideration of Complaints

1. ACRB Case No. 16-150 – Refusal to File Report & Inappropriate Conduct
On October 18, 2016, the Complainant filed a complaint alleging that on October 4, 2016, an unknown APD officer at the Zone 4 precinct refused to complete a report. She further alleged that the officer was dismissive and belittling towards her.

The ACRB's attempts to identify the subject officer have been met with negative results. Therefore, recommend dismissal for lack of information.

B. BOARD VOTES ON INTAKE REPORT

Houston-Torrence moved to accept the Intake Report for September 2017. *Pitre* seconded. Hearing no further discussion, the motion was approved.

COMPLAINTS REVIEW:

ACRB CASE NO 15-095

A. ALLEGATION SUMMARY

The Complainant alleged that on June 28, 2015, he was unlawfully detained and falsely arrested by Atlanta Police Sergeant Micah Conner and Officer Sanjay Williams.

The Complainant also alleged that Sergeant Conner and Officer Williams lacked probable cause to arrest him.

B. STAFF RECOMMENDATION

The ACRB Staff recommends that the allegation of **False Imprisonment** against Sergeant Conner and officer Williams be assigned a finding of **Sustained** (*the investigation established that there is sufficient evidence that the alleged act(s) occurred*).

The ACRB Staff recommends that the allegation of Appropriate Action Required, as it relates to false arrest, against Sergeant Conner and Officer Williams be assigned a finding of **Sustained** (*the investigation established that there is sufficient evidence that the alleged act(s) occurred*).

Discussion and Comments...

1. *(Bartels)* There were two different address listed in the report, 795 Lee Street and 801 Lee Street. Now, 801, that is where the alleged trespassed occurred and 795 was the Complainant's trailer, residence?
2. *(Robertson)* Correct.
3. *(McDaniel)* Were the officers not interviewed because they're no longer with APD?
4. *(Robertson)* No, we didn't interview the officers because they had been interviewed by OPS, and after reviewing their statements, I didn't see anything else that I would have asked differently, so I didn't get a statement.
5. *(Bozarth)* Has the case been resolved by OPS?
6. *(Robertson)* Yes, it has, exonerated both officers and they sustained against the Sergeant for not filing the use of force in the report.
7. *(Pitre)* In regards to the warrant, did they get the warrant after the fact?
8. *(Robertson)* Yeah, sometimes they get the warrant after the fact.
9. *(Bozarth)* What's after that?
10. *(Bartels)* I can clarify on that. After somebody is arrested, if there's no warrant, then they have to be brought in front of a judge within 48 hours and the judge can determine whether there was probable cause, and it's common for police officers to give a warrant after the arrest. So, when they're brought before a judge, the judge can look at that and say, "Well, probable cause has already been found, because there's a warrant." They don't have to have a preliminary hearing at that point.
11. *(Orange)* Is the issue here with the warrant, the address, because it seems that on the warrant it said 801. The subject was arrested at 795. Does that have anything to do with the fact that the case was *nolle prosequi*?
12. *(Robertson)* No. The first issue is whether or not they had reasonable suspicion in the first place to detain Mr. Malobe. And at that time, they didn't have an arrest warrant and they didn't have a search warrant to enter his residence.

13. **(Bartels)** *There was a notation that he was identified by one or both of the property owners. Is that correct?*
14. **(Robertson)** *That was in the claim, yes.*
15. **(Bartels)** *Okay. Do you know when they said that happened? Was it before or after he was detained?*
16. **(Robertson)** *It was before. Once they had apprehended him, then they said that that was him.*
17. **(Brogdon)** *Okay. Do you know the reason why OPS exonerated the officers?*
18. **(McDaniel)** *Epecially when they had no probable cause.*
19. **(Robertson)** *They said because they had sufficient information. They thought the witnesses that were on the scene, that they had identified Mr. Malobe as the person that was trespassing.*
20. **(Brogdon)** *Does that basically boil down to, because the witness said that they saw Mr. Malobe, that was the justification for the exoneration?*
21. **(Robertson)** *Yes.*
22. **(McDaniel)** *Did they not consider that they did not have probable cause for the arrest?*
23. **(Robertson)** *They determined that he had and they had probable cause.*
24. **(Bartels)** *What I was saying, that is one factor that can be taken into account in determining whether there's probable cause, but there's no one ingredient or one factor. It's just quote unquote the totality of the circumstances, and it's nonbinding. It can go either way sometimes.*
25. **(Bozarth)** *Well, do you recommend that we sustain the charge on both false imprisonment and false arrest, correct?*
26. **(Robertson)** *Yes.*
27. **(Bozarth)** *Could you just sort of summarize what made you lean towards that decision as opposed to the same decision as OPS?*
28. **(Robertson)** *Yes, it's pretty much on page 14 where I outlined it. Basically, at the time of the incident, they didn't have probable cause to enter the trailer. They did not possess a search warrant to enter the premises. Also, they did not have an objectively reasonable basis to believe that someone in the trailer had, was in imminently threatened with serious injury. They could have just tried to get a search warrant to enter into the property.*

C. BOARDS VOTE ON ALLEGATION OF FALSE IMPRISONMENT

McDaniel moved to accept staff's recommendation to assign a finding of **sustained** for **false imprisonment** allegation against Sergeant Conner and Officer Williams. **Houston-Torrence** seconded. Hearing no further discussion, the vote was called and the motion was approved.

D. BOARDS VOTE ON ALLEGATION OF APPROPRIATE ACTION REQUIRED, AS IT RELATES TO THE FALSE ARREST

McDaniel moved to accept staff's recommendation to assign a finding of **sustained** for **appropriate action required**, as it relates to **false arrest** allegation against Sergeant Conner and Officer Williams. **Pitre** seconded. Hearing no further discussion, the vote was called and the motion was approved.

E. BOARD'S VOTE ON DISCIPLINE RECOMMENDATION FOR ALLEGATIONS – FALSE IMPRISONMENT -SERGEANT CONNER

Officer Information and Professional Standards History:

Sergeant Conner has been with the APD since September 25, 1989. In the last five (5) years, he has had four (4) complaints; three (3) were false arrest complaints; including this case. None were sustained.

Discussion and Comments...

1. **(Pitre)** *Is that his history over the 28 years?*
2. **(Robertson)** *Well, he didn't have any complaints. His last complaint prior to that one was in 2008. Almost nine, ten years ago. We're looking at the past five years. And since that time, from 2008, his next complaint was 2014.*
3. **(Brogdon)** *Wait, so what is the time period that he's had these four complaints?*
4. **(Robertson)** *So he had one in 2014, two in 2015, and one in 2016.*
5. **(Brogdon)** *And none were sustained?*

6. **(Robertson)** No, except for the, that piece about not filing a Use of Force report.
7. **(Brogdon)** Can you tell the board what our options are?
8. **(Robertson)** Well, this would be a category A because you're going to look at the APD disciplinary grid on it, and it would be an oral or written reprimand and/or training.
9. **(Brogdon)** I feel a little bit torn about that. There's a piece of me that says, where there's smoke there's fire, but the amount of just sheer complaints since 2014...four complaints in three years, but we also have to respect the fact that none of them were sustained.

Houston-Torrence moved to recommend that Sergeant Conner receive a written reprimand. **McDaniel** seconded. Hearing no further discussion, the vote was called and the motion was approved with one opposed vote (**Bartels**)

G. BOARD'S VOTE ON DISCIPLINE RECOMMENDATION FOR ALLEGATIONS – FALSE IMPRISONMENT – OFFICER WILLIAMS

Officer Information and Professional Standards History:

Officer Williams has been with APD since February 2, 2012. He has had eight (8) complaints filed against him. Two (2) of them involved vehicle accidents; both were sustained. Two (2) were attendance complaint; both were sustained. Two that are still pending (*unable to review files*). One (1) complaint which was a false arrest; complaint was not sustained and the current complaint with ACRB.

H. BOARD'S VOTE ON DISCIPLINE RECOMMENDATION FOR ALLEGATION – APPROPRIATE ACTION REQUIRED, AS IT RELATES TO FALSE ARREST

Discussion and Comments...

1. **(Brogdon)** What was the second pair of complaints?
2. **(Robertson)** Two involving pending. One was for lateness and being out for three days with an excuse.
3. **(McDaniel)** No false arrest or imprisonment?
4. **(Robertson)** He had two. One (1) it was not sustained, and he had responded to a fight call and this one that we have today. So, it would be a category A.
5. **(Pitre)** For this one, the choices, one of them was training?
6. **(Robertson)** Yes. Oral or written reprimand and/or training.
7. **(Brogdon)** He started in 2012? So he's just been an officer for five years.
8. **(Robertson)** Yes, correct.
9. **(Orange)** But after five years, there are eight complaints, right? Is that what you said, Ms. Robertson?
10. **(Robertson)** Yes, eight.
11. **(Orange)** Well, the, I guess the way I'm looking at it is, he clearly has a problem with following policy. So, I think if we are, our recommendation will probably be that he do the training and get the written reprimand. I think he needs both of them.

Orange moved to recommend that Officer Williams receive a written reprimand and training on APD's Search & Seizure Procedures. **McDaniel** seconded. Hearing no further discussion, the vote was called and motion was approved with

ACRB CASE NO 16-178

A. ALLEGATION SUMMARY

The Complainant alleged that on November 25, 2016, during his incarceration at the Atlanta City Detention Center, Capt. Jack English falsely accused him of bullying other inmates and had him placed in segregation for reporting an inmate had a razor blade in his possession.

B. STAFF RECOMMENDATION

The ACRB staff recommends that the allegation of **Retaliation** against Captain English be assigned a finding of **Exoneration** (*the investigation established that the alleged act occurred but was justified, legal or properly within Department policy*).

Discussion and Comments...

1. **(Orange)** *I just think that the complainant did not understand the fact that they were actually trying to protect him. Because in reading the case, it was evident that he was bullying him. Based on his statement and based on the sergeant's statement that, they were congregating and it appeared that they might have been planning something. So, I don't think that they were retaliating against him, because in actuality he was assisting the staff by letting them know that there was a weapon within the pod. So, I just think he didn't understand the fact that they were trying to keep him protected from getting hurt.*
2. **(McDaniel)** *I believe they were saying they needed to take him out of the cell because he was bullying everybody.*
3. **(Pitre)** *He said that he basically gave information. The captain and everyone denied that, until he was actually getting transferred to the other unit. So, you know, that part is questionable.*
4. **(Bartels)** *My understanding is that the gist of the allegation is that this was retaliation for reporting the razor blade. And if I recall correctly, he did report the razor blade, that was filled out but...*
5. **(Fleming)** *You know, what happened was he said that he reported it. ADC informed us that there was no record of him ever reporting that. The only record that they have of him reporting it was on the complaint he filed on the day that he was moved.*
6. **(Bartels)** *Okay, so there's not documentation that it was reported before he was moved.*
7. **(Fleming)** *Correct.*
8. **(Brogdon)** *And Captain English, he figured out about the report of the razor blade when he was transferring Mr. Ayo. Is that correct?*
9. **(Fleming)** *That's correct. That's when he learned about it.*
10. **(Bozarth)** *Can you provide any sense of how and why Mr. Ayo was in custody?*
11. **(Fleming)** *Mr. Ayo was an ICE detainee, and I really couldn't tell you. I talked to ADC and they notified me that there is limited information that they have and limited information I could have.*
12. **(Bozarth)** *Were you given the names of the other people in the pod, various witnesses to this allegation...most of them was being detained by the ICE organization.*
13. **(Fleming)** *Yes, they were ICE detainees as well.*
14. **(Bozarth)** *So we have no idea what the charges against him were. We only know that he was transferred to our jail by federal authorities, is that correct?*
15. **(Fleming)** *Yes. APD act as a housing place.*
16. **(Bozarth)** *I find that very enlightening. I was not aware that we had that kind of operation going on in our jails. Is it also true, is it not, that Mr. Ayo has since been released without being further deported or otherwise acted against?*
17. **(Fleming)** *Right. He has been release*
18. **(Bozarth)** *Can he return to Nigeria, as far as we know?*
19. **(Fleming)** *As far as I know, yes. He's could be on vacation but he's there. The only thing he told me is he's from Nigeria. I can't tell you that he's been deported.*
20. **(Bozarth)** *Well, my, my, I'm assuming that he wasn't deported...it was just let go out of the jail.*
21. **(Fleming)** *Right. He was released and he's in Nigeria right now. But I did not know the reason why he's in Nigeria, and I can't tell you why.*
22. **(Bozarth)** *Well, that's not independent of the charge here, where we have to decide on that. I simply find it very enlightening in terms of finding out that we have a whole pod of people who do not have documentation that are in the country and are being held in our jail and release without any information about why they were put there in the first place and why they were released. I think we need to get back on track, but I did want to make that observation based on what you told me.*
23. **(Bartels)** *We have a question about the exact recommendation and this is kind of a game of semantics, but I think words are important. I understand the staff's recommendation is exonerated. I'm wondering if perhaps not sustained would be better because even if we had some sort of proof that the razor was not reported before he was moved, then I think that would be exoneration. But here it's not clear exactly when the razor was reported, so there's nothing to settle the issue one way or the other, and I think in that regards, we normally give a not sustained on that.*
24. **(Houston-Torrence)** *That's within our purview to do that?*

25. (**Brogdon**) Well, yes, Paul (**Bartels**) is essentially saying, he's striking a difference between exonerated and not sustained, and so if we don't know where the blame came from, we don't know where it was stashed and that type of thing, it's hard to say they're exonerated because the records would only show one side of the story.
26. (**McDaniel**) So we will be able to amend the recommendation?
27. (**Brogdon**) Well, I don't know that we would amend it here, it would just be whether we accepted it or not or we're deciding to do something...
28. (**Bozarth**) I think there are some people here in the audience that are around this case, I understand that, but, it's very hard for me to vote to sustain the charge against the officer when 19 people made statements that he was disruptive in the pod and I can't believe that the moving was done for any bad reason. I don't think he saw any abuse or anything during the transfer, so my inclination is to agree with the staff that we're not going to sanction the officer. I think what we are now debating is whether it's exoneration over not sustaining the charge.

McDaniel moved to accept staff's recommendation to assign a finding of **exonerated** allegation against Captain Jack English. **Houston-Torrence** seconded. Hearing no further discussion, the vote was called and the motion was approved.

ACRB CASE NO 17-023

A. ALLEGATION SUMMARY

The Complainant alleged that on February 2, 2017, Atlanta Police officer Juan Restrepo acted inappropriately by falsely arresting him and his friend for smoking marijuana in Woodruff Park. The Complainant also alleged that an officer, whom he believes was Officer Restrepo tried to get him to lie and falsely implicate his friend as having marijuana. He further alleged that some of the items that were seized from his friend were not put into Property.

APD records show that Officers Aaron Voorheis and Alex Crawford were also involved in this incident and were thus treated as subjects for the purposes of this investigation.

B. STAFF RECOMMENDATION

1. Allegation of Appropriate Required

Issue 1-a: The Complainant's allegation that he and his friend were falsely arrested. Both, the Complainant and Officer Restrepo have conflicting accounts of the incident and there are no witnesses or video footage that could corroborate either account.

The ACRB Staff recommends that the allegation of **Appropriate Action Required** against Officer Restrepo be assigned a finding of **Not Sustained** (*the investigation failed to prove or disprove the alleged act(s) occurred*).

Issue 1-b: The Complainant's allegation that some of his friend's property was not placed into Property. According to the aforementioned APD policy, if the friend had flowers in his possession at the time of the arrest, the flowers would have been discarded and not placed into Property which was probably what happened in this case; they were perishable. Officer Restrepo did state that he recalled seeing one of them with a vase of flowers. As it relates to the lottery ticket, there is no evidence that it existed and there is no corroborating evidence to substantiate the Complainant or his friend's claim.

The ACRB recommends that the allegation of **Appropriate Action Required** against Officers Voorheis and Crawford, as it relates to this issue, be assigned a finding of **Not Sustained** (*the investigation established that there is insufficient evidence that the officer committed the alleged acts of misconduct*).

2. Allegation of Conduct

The Complainant alleged that one of the arresting officers, whom he believes was Officer Restrepo, tried to get him to lie and falsely implicate the friend as having the marijuana. Officer Restrepo denies the allegation and contends that at the time of the incident, he was working an undercover detail and he did not have any verbal or physical contact with either party. Officers Crawford and Voorheis, who effectuated the arrest, deny the allegation.

APD records show that it was Officers Crawford and Voorheis that effectuated the arrest of the Complainant and his friend, not Officer Restrepo, and both officers deny committing the alleged act.

The ACRB staff recommends that the allegation of **conduct** against Officer Restrepo be assigned a finding of **unfounded** (*the investigation established that the officer did not commit the alleged acts of misconducts*).

The ACRB staff recommends that the allegation of **conduct** against Officers Crawford and Voorheis be assigned a finding of **not sustained** (*the investigation established that there is insufficient evidence that the officer committed the alleged acts of misconducts*).

Discussion and Comments...

1. **(McDaniel)** I just have a question for clarification. A beedi is like an herbal cigarette or something?
2. **(Robertson)** There's a photo. It's like a thin or mini cigar...
3. **(Bozarth)** Does anybody know enough about it to distinguish if it smells like marijuana or not? I think that really the crux of this case is, were they really smoking marijuana or not, because if he was being busted on the evidence as we see it here, it's very flimsy evidence. Ms. Robertson is recommending not sustaining the charge. I think it's on shaky ground by seeing him throw down a cigarette and then after the fact giving him a ticket for littering, when you couldn't find any weed on him.
4. **(Bartels)** The other concern that I have is that he said that he observed him smoking the cigarette or smoking what he believed was marijuana and he discarded it. But when, isn't it customary for him to retrieve that as evidence in the case?
5. **(Robertson)** Well, in this particular situation, he said he didn't smoke it by the time the arresting officers came on...not that it was discarded.
6. **(Brogdon)** They don't disappear, you know? Unless it's really small. Do we know that whether there was any confirmation whatsoever that marijuana was found?
7. **(Robertson)** No. None was found.
8. **(Brogdon)** Was there any disposition on the citation that we know of?
9. **(Robertson)** No, it was bound over to the Fulton County State Court at the time of that report, so I don't know if everything has...
10. **(Brogdon)** Remember Board, our burden is "more likely than not," so when you're looking at this case, this is one of those cases we always have a tough time with because there's kind of evidence on either side and our burden here is more "What is more likely than not?"
11. **(McDaniel)** Well, they'd been celebrating his birthday. However, if there wasn't any evidence, I don't know about, you know...
12. **(Orange)** Wouldn't that have been an easy kind of fix, because they were taking pictures in the park and if they were celebrating a birthday and he had the balloons and the flowers and whatnot, then there should have been some kind of photos, graphic evidence of that, and if they did have that or were able to provide that, then that would potentially lead me to believe that maybe it was not destroyed. Or the officers didn't do anything with it. Did they say whether or not, or did they provide you with any kind of photographic evidence of the balloons, flowers, birthday?
13. **(Robertson)** Who were you referring to?
14. **(Orange)** Mr. Jackson.
15. **(Robertson)** No. They had gone to the park to take picture by the waterfall, but the waterfall was not on, so I'm not sure whether or not they still took the pictures.
16. **(Orange)** In his statement, it said, that's where they saw the officer must have seen him give his friend the beedi so that a picture couldn't be taken of him. That's what I read. I think.
17. **(Robertson)** I guess I'm trying to understand what the pictures would have proved.

18. **(Orange)** Because that was part of his complaint. They said that his property was destroyed. He didn't get his lottery ticket or something... it was destroyed... They didn't have it. And the police didn't have it logged in.
19. **(Robertson)** Well, the lottery ticket, one of the officers recalled that Mr. Hannah did have, I believe he had some flowers, and what happened to the lottery ticket, they are saying that they don't know. They don't remember a lottery ticket. And one of the officers said even if he had a lottery ticket, they wouldn't have taken it. That is something that he could take to the jail. The flowers, if they were confiscated, then they would have been thrown away because they're perishable and wouldn't have been in the property anyway.
20. **(McDaniel)** So just for clarification, there was an undercover officer that saw them smoking what he believed to be weed.
21. **(Robertson)** Right, he was undercover at the time, and he said he observed them passing back and forth what appeared to be marijuana. He moved closer to them. He was about two to three feet away. He could smell it. He called the team to come to arrest, but before they got there, they had finished smoking marijuana and was walking on Peachtree. That's when the officer encountered them and took them into custody.
22. **(Bartels)** I think we should keep in mind that Officer Restrepo made the decision to call for their arrest. He was the one who said he observed the marijuana. The other two were just going by what they were told.
23. **(Robertson)** Correct.
24. **(Bozarth)** And once they didn't find anything on them, they had the option to let them go. That's my concern is that... why did they follow through once they found no marijuana in either man's possession?
25. **(Robertson)** That wasn't their intent to find out whether or not they had marijuana. Their intent was to arrest, because that was what their detail was. Officer Restrepo was undercover, so he couldn't make the arrest.
26. **(McDaniel)** So you're saying that they weren't, there for the weed?
27. **(Robertson)** Well, they were going by what the undercover officer had told them, that they were there to make the arrest.
28. **(McDaniel)** Okay, so they weren't looking for evidence or anything?
29. **(Robertson)** No.
30. **(Bartels)** They were going on the word of the first officer who claimed he could smell it, yeah.
31. **(Bozarth)** But am I correct, they did conduct a search and did not find any?
32. **(Robertson)** Correct. Just like an officer who gives any other arrestee, they were able to do a pat-down before they were taken away into custody.
33. **(Brogdon)** Just as a quick pause, I want to remind everybody in the audience that to speak, please sign up. We're going to have a section for public comments, in which you have three minutes, but we won't be able to respond to you. I just wanted to throw that out there so that we're all on the same page.

3. BOARD'S VOTE ON ALLEGATION OF APPROPRIATE ACTION REQUIRED – OFFICER RESTREPO

McDaniel moved to accept staff's recommendation to assign a finding of **not sustained** for **appropriate action required** allegation against Officer Restrepo. **Houston-Torrence** seconded. Hearing no further discussion, the vote was called and the motion was approved with two (2) opposed votes (**Bartels & Bozarth**)

4. BOARD'S VOTE ON ALLEGATION OF APPROPRIATE ACTION REQUIRED – OFFICERS VOORHEIS AND CRAWFORD

Discussion and Comments...

1. **(Brogdon)** We still have to figure out the allegation that some of Mr. Hannah's property was not placed into APD property.
2. **(Robertson)** And specifically, that they had a lottery ticket and flowers.
3. **(Brogdon)** Well, the flowers, we're not worried about because of the policy for perishable flowers, but the lottery ticket is what we've got to figure out.

4. **(Bozarth)** *I believe I read in the report that normally that someone who had been incarcerated... the keys, something like that in the pocket, they would not take it into property. Is that the normal procedure?*
5. **(Robertson)** *Yes, that's what they claim. Both of them said that they don't recall seeing a lottery ticket, and one of the officers stated that even if he did have a lottery ticket, that's something that they wouldn't confiscate.*
6. **(Bartels)** *So this is one of these other situations where we see where it's two different stories and no documentation or corroboration.*

Bartels moved to accept staff's recommendation to assign a finding of **not sustained** for **appropriate action required** allegation against Officers Voorheis and Crawford. **Houston-Torrence** seconded. Hearing no further discussion, the vote was called and the motion was approved.

5. BOARD'S VOTE ON ALLEGATION OF CONDUCT – OFFICER RESTREP

Discussion and Comments...

1. **(Orange)** *This is a case where it is going to be his word against his word, you know. There's not a third witness with that, so...*
2. **(Brogdon)** *So staff found that it was unfounded versus...*
3. **(Bartels)** *Well, I think there are two recommendations. One, the recommendation of unfounded is for Officer Restrepo, because he made the initial call to make the arrest. But the actual interaction, because he was undercover at that point, was with the other two officers and the recommendation for these officers, Officer Crawford and Voorheis was not sustained as opposed to unfounded.*
4. **(Bozarth)** *But didn't you say that the complainant had said that it was Officer Restrepo who was the one who tried to get him to incriminate his companion?*
5. **(Robertson)** *That was his belief. Officer Restrepo was undercover in plain clothes. After he made signals to the officers to arrest, he went back to his detail as an undercover. He couldn't step out of his role because that would have blown his undercover operation at jeopardy. It was the two officers who questioned him, Crawford and Voorheis and unfortunately, they are part of the team, so they don't have body-worn cameras and the vehicles they drive do not have WatchDog, so there's no dash cameras available.*
6. **(McDaniel)** *So, the officers that Mr. Jackson said tried to get him to incriminate his friend, were they wearing body cameras?*
7. **(Robertson)** *No. They're part of a specialized unit, so they don't have body cameras.*
8. **(Bartels)** *And which unit is that?*
9. **(Robertson)** *The FIT Team, the Field Investigation Team.*
10. **(Bartels)** *And do we have a rationale as for not having BWCs?*
11. **(Robertson)** *They're going to have dash cameras eventually, but they're the last ones to receive them.*
12. **(Brogdon)** *Officer Crawford and Voorhees we need to figure out both the conduct alleged against them, and we're going to vote on that, but also the conduct separately with Officer Restrepo. So there is basically no possible way Officer Restrepo came into contact with Mr. Jackson.*
13. **(Robertson)** *Officer Crawford and Voorhees was there. You know, they were the ones that had interaction with him. The officers that made the arrest. They don't recall having a conversation with him.*

Houston-Torrence moved to accept staff's recommendation to assign a finding of **unfounded** for **conduct** allegation against Officer Restrepo. **Bartels** seconded. Hearing no further discussion, the vote was called and the motion was approved with one opposed vote (**Bozarth**).

6. BOARD'S VOTE ON ALLEGATION OF CONDUCT – OFFICERS CRAWFORD AND VOORHEIS

Bartels moved to accept staff's recommendation to assign a finding of **not sustained** for **conduct** allegation against Officers Voorheis and Crawford. **Orange** seconded. Hearing no further discussion, the vote was called and the motion was approved.

ACRB CASE NO 17-070

A. ALLEGATION SUMMARY

The Complainant alleged that on May 16, 2017, Atlanta Police Investigator Summer Benton exhibited unprofessional and threatening behavior when she placed her hand on her firearm while speaking to her.

B. STAFF RECOMMENDATION

The ACRB staff recommends that the allegation of **Conduct** against Investigator Summer Benton be assigned a finding of **Not Sustained** (*the investigation established that there is insufficient evidence that the officer committed the alleged acts of misconduct*).

Discussion and Comments...

1. *(McDaniel) She never responded to interview requests?*
2. *(Robertson) No, I tried for about two months to get in touch with her, and she never responded.*
3. *(Bartels) Were these uniformed officers or plainclothes?*
4. *(Robertson) Plainclothes.*
5. *(Bartels) And I take it they did not wear body cameras.*
6. *(Robertson) They don't have body cameras.*
7. *(Bozarth) They were at the Hilton Hotel for purposes of visiting someone inside. They weren't even performing official business when they, is that correct?*
8. *(Robertson) Yes.*
9. *(Bozarth) I think this is pretty cut and dried, in my opinion. Seeing as that we could not get the complainant to respond to you, I don't think there's any way we would want to sustain the charge, so I'm inclined to accept Ms. Robertson's recommendation that we not sustain the complaint against Officer Benton.*

Bozarth moved to accept staff's recommendation to **Not Sustained** for allegation of **Conduct** against Investigator Summer Benton. **McDaniel** seconded. Hearing no further discussion, the motion was approved.

ACRB CASE NO 17-042

A. ALLEGATION SUMMARY

The Complainant alleged that on February 22, 2017, when the Special Police Officer Patrick Witter (SPO Witter) responded to her 911 call reporting that someone had forcibly entered her home, held one of its occupants at gunpoint and refused to leave, SPO Witter failed to conduct an adequate investigation, failed to complete an incident report and laughed at her when she expressed concern for her safety.

B. STAFF RECOMMENDATION

1. **Allegation of Appropriate Action Required**

The Complainant allegation that when SPO Witter responded to her 911 call, he failed to conduct an adequate investigation and failed to complete an incident report. The ACRB Staff recommends that the allegation of **Appropriate Action Required** as it relates to Officer Witter failure to conduct an adequate investigation and his failure to complete an incident report against SPO Witter be assigned a finding of **Sustained** (*The investigation established that there is sufficient evidence that the officer committed the alleged acts of misconduct*).

2. **Allegation of Conduct**

The Complainant allegation that SPO Witter laughed at her when she expressed concern for her safety. The ACRB Staff recommends that the allegation of **Conduct** against SOP Witter be assigned a finding of **Sustained** (*the investigation established that there is sufficient evidence that the officer committed the alleged act of misconduct*).

Additional Recommendation

The Board may want to recommend to the APD that SPO Witter be mandated to undergo training, as it relates to stalking and protective-orders, and also strongly urges the APD to make them available, if not mandatory, for all its officers.

C. BOARD'S VOTE ON ALLEGATION OF APPROPRIATE ACTION REQUIRED

Discussion and Comments...

1. **(Bozarth)** *I think the key thing we're looking at here is whether the officer behaved in this disrespectful way to the complainant. This is the first one where we've had body-worn camera evidence. I came to the office and watched some 20 minutes of recording. And I would encourage everyone to do this in the future. It's very enlightening about the nuances of the case that you couldn't possibly get from the written...you see on the tape. Having watched it, here's my summary. I think that Officer Witter clearly, at least on that day, did not exhibit a very friendly attitude towards the people he was encountering with, but he never really lost his cool. He never said anything that sort of gave me that impression. Yet the implication here is that he didn't take it seriously. When he heard the conversation, I believe the officer was trying to take it seriously, it's more difficult to discuss it with the complainant. She was very emotional. I'm inclined to say this is one that could go either way. I'm not sure that I agree that the charges should be sustained, but I'll make more comments about it when other people chime in.*
2. **(Brogdon)** *I thought you did a very good job of communicating the demeanor of the officer. I thought that was very important. I understand what Bill (Bozarth) is saying, and I wish, I could get down here to see it, but I felt like you did a very good job of communicating his demeanor with Ms. Alexander. Do we have any discussion?*
3. **(Pitre)** *And the fact that he didn't make a report, that's not appropriate for this type of situation.*
4. **(Bozarth)** *My inclination would be to sustain the charge on the appropriate action required. I just question after watching the video, listening to most of the comments that the conduct, saying that it was inappropriate well that is a tough call, but I would, if considering them separately, not filing a report, is certainly something that we should note.*
5. **(Bartels)** *The conduct and demeanor could be somewhat open to interpretation, but it's clear that the report wasn't filed, and I think that's what's (inaudible) of this particular account.*
6. **(Bozarth)** *And he left the scene implying to the citizen that he was going to do that and that is just not good for public relations. This is not good for the police. Certainly, that doesn't instill confidence in the citizenry, when you say you're going to report something and you don't. So I would be willing, on the charge of, appropriate action required to recommend that we move to sustain the charge.*

Bozarth moved to accept staff's recommendation to **Sustain** for allegation of **Appropriate Action Required** against Officer Witter. **Pitre** seconded. Hearing no further discussion, the motion was approved.

D. BOARD'S VOTE ON ALLEGATION OF CONDUCT

Discussion and comments...

1. **(Bozarth)** *Well, again, if you watched the video, she didn't accuse him of laughing. He smiled, I guess when she said something and he had an explanation of that, which was...she did say something that he thought was incriminating to her, and he thought that was something that she might not want on the record. That was his story. I had trouble with that one too. I would be inclined not to sustain the conduct, especially if it is just around a smile. What else was there in conduct that she felt...*

2. *(Al-Nur) I understand what you said so far. It's a two-handed argument. On the one hand, you could look at what you already stated. On the other hand, she said that he laughed and so did the witnesses. He may have said that he laughed, but he explained why he laughed. And you could also look at it as not being appropriate to the moment. It could have been looked at as insensitive.*
3. *(McDaniel) I agree that it was insensitive, because if you have never experienced domestic violence, you know, you don't want someone that's supposed to be there to help you, smiling because of what's happening at the time.*
4. *(Pitre) It was unethical because he definitely told her he would write a report. He didn't care that much.*
5. *(Brogdon) I guess the standard for him not to laugh or smile or anything like that is a tough standard for anybody. I mean, even though this is a very difficult situation, he's a person too, and so I think our first task is deciding whether it's more likely or not that he did laugh, based on the different witnesses' testimony. Then we handle the sensitivity part with the admonishment if we do sustain. Does that make sense?*
6. *(Houston-Torrence) Was any of that visible on video?*
7. *(Bozarth) I did not hear a laugh. And could go back and listen again. They, they got her angry with him as they were departing. The father of her children...at that point, he just wanted to get out of there because the situation wasn't going to get any better. And so it was kind of a, abrupt ending; a bad situation about to get worse, and he departed the premises. He didn't lose his temper. I think he conducted himself in a way that was not across the line. I'm not going to sustain at this point.*
8. *(Houston-Torrence) Houston-Torrence. I felt that his explanation, trying to explain it, was also self-incriminating. He was trying to explain why he was smiling, which it doesn't matter. There is a higher standard. We might laugh arbitrarily at a lot of thing, but there should be a higher standard for our officers to maintain composure.*

Houston-Torrence moved to accept staff's recommendation to **Sustain** for allegation of **Conduct** against SPO Witter. **McDaniel** seconded. Hearing no further discussion, the motion was approved with two opposed votes (**Bartels & Bozarth**).

E. BOARD'S VOTE ON DISCIPLINE RECOMMENDATION ON SPO WITTER REGARDING CONDUCT

Officer Information and Professional Standards History:

Officer Witter has been an officer since July 10, 2007. He has had five (5) complaints filed against him in the past five years. One (1) vehicle accident; One (1) is still open (unknown allegation). Three (3) were not sustained; involved a domestic violence; failing to write an incident report and the last one involved recovered property.

McDaniel moved to recommend that SPO Witter **receive a Written Reprimand and Training on APD's policy governing courtesy**. **Houston-Torrence** seconded. Hearing not further discussion, the vote was called and motion was approved.

F. BOARD'S VOTE ON DISCIPLINE RECOMMENDATION ON SPO WITTER REGARDING APPROPRIATE ACTION REQUIRED

Discussion and Comments...

1. *(Brogdon) Okay. Well, he does have a, an incident report issue in the past. I think that's real straightforward policy, kind of basic training stuff. It's problematic because that's the only record of the incident and so, for example, if something had been destroyed, this is a kind of an insignificant example because someone gets hurt, but if something had been destroyed and you had to report it to homeowner's insurance, you wouldn't have the proof to do that. So, people depend on these reports, not only in that situation but also for more serious situations like this. Any other thoughts? Any motions?*
2. *(Houston-Torrence) I think that we should recommend written reprimand and training.*
3. *(Brogdon) Any specific kind of training?*

4. **(Bartels)** Well, I think the recommendation of staff is also including training regarding domestic violence situations and, and temporary protective orders. I think that should be part of whatever recommendation we make.
5. **(Robertson)** So with the appropriate action for the penalty for failure to complete an incident report, so the training on the SOP about report writing? Is that your recommendation?
6. **(Bozarth)** Well, again, if you heard the dialogue between the two, Officer Witter was trying to convince her that the complaint was not against anybody that she was not the one threatened. It was, it was pretty clear that, you know, there is a lack of clarity here. So, the dialogue back and forth, he really was trying to get her to understand what, who had the right to have a restraining order and, you know, it was her sister's boyfriend, I believe, right?
7. **(Al-Nur)** Right.
8. **(Bozarth)** Yeah, it was the man in question who was misbehaving and had a gun. He was just trying to straighten it out. He could have done a much better job and in a nicer kind of way, but I did not feel from listening to it that he had said anything out of line and I don't think the training is pretty obvious, I mean, you're supposed to write a report. I mean that's sufficient. I mean, that's a very short class. You know, you tell the citizen you're going to write a report and you write it. I think written admonishment is sufficient. I don't know that there's a class for the other, and he was trying his best to make it clear to her. I think he understands those things pretty well from what I heard.
9. **(Al-Nur)** If I may, in terms of training recommendation, I saw that it was real clearly a knowledge gap, in terms of the domestic violence in particular, temporary or restraining order involving persons who are not...I think it was not obvious to him that she was entitled to a restraining order or entitled to that type of action. I think that he thought he could help her but that was an area that he was not clear on, and I think it could be helpful for him to be out there and working to get some clarity on who is entitled to protection. He struggled throughout trying to figure out what certain protection that could be applied to her and he wasn't able to place that, so, you know, according to the Family Violence Protection Act, the SOP, I think, is 3083. Due to the fact that they were former housemates, she was entitled to a restraining order but also because his conduct could be perceived as stalking, which the court found when they issued a 12-month restraining order for stalking. Stalking is a separate act, so that means that they don't have to establish a relationship. She didn't matter that, you know, they weren't dating or even if they lived together, I mean, it's because of his actions, that alone, is a standalone statute. But he was clearly not aware of that. And so he left without any further recommendation for protection. She was more persistent, and that's how she obtained that restraining order.
10. **(McDaniel)** And then on top of that, it doesn't matter if the guy, you know, is stalking someone or crazy. He could kill everyone in the house or in the apartment. So, it's important that law enforcement understands that and is sensitive to them.
11. **(Al-Nur)** As far as the officer running a check, there is a separate registry, in terms of restraining orders. The officer would have accessed a separate database; which he did not. So he did not access that data base and he also didn't access an arrest.
12. **(Orange)** He couldn't have because according to the NCIC rules, that would have been illegal if the person that he was running criminal histories on didn't have a warrant or they weren't in his presence at that time to be arrested, so that's not something that he could have done. If he had done that, he would have been found liable and possibly fined and sent to prison, if that man, if he had not pulled criminal history on him.
13. **(Al-Nur)** You may be absolutely correct. I'm not certain because I think there's a family violence act when you're investigating a domestic violence dispute allows you to dig a little further. I can't speak with certainty and as far as answering the other part of your question, in terms of what he could not have done given that ... pointed a gun was not in the home. The thing about it, under SOP 3083, because of, one, her relationship with the assailant, that they were former housemates and she ...he could have discovered if it had been on his radar, in terms of relationship requirements. He did all the other ones except that one. And he was just asking her and trying to establish relationships between them. So, at the very minimum, entitled her, to seek protection under a restraining order. Even if he did not find any probable cause if these acts were committed or anything like that and he tried to pursue an arrest warrant, at the minimum he should have advised of her rights to protection. Does that answer your question?
14. **(Orange)** Yeah, I think so. If he had giving her the information, is that what we're saying? If he had just told her and filed the report.
15. **(Al-Nur)** And filed the report.
16. **(McDaniel)** And that's why you found...make a recommendation of sustained because he didn't do those things?
17. **(Al-Nur)** Right.

18. (**Brogdon**) *Now we all agree on sustainment. We're just trying to nail down specific training?*
19. (**Bozarth**) *I think in the recommendation, whether it's training or not, the issue is, he can say that he didn't fully understand and yet I can understand how an officer in the field might not have that depth of knowledge about this particular part of the law. That is understandable. So, yeah, I think I would authorize, Ms. Nur to put the words in and go to the issues as you said. That would be the type of training that would go in the letter.*
20. (**Brogdon**) *Additional recommendations. The board would recommend to the APD that SPO Witter be mandated to undergo training as it relates to stalking and protective orders and also strongly urges the APD to make it available, if not mandatory, for all its officers.*
21. (**McDaniel**) *Because it's serious, you know, regardless if he isn't aware of what happens in that situation, it's still unnerving and probably devastating for someone to be in a situation like that and don't have any information and especially after calling law enforcement because you're feeling helpless.*

Houston-Torrence moved to recommend that Officer Witter receive a written reprimand and training as it relates to stalking and protective-orders. **McDaniel** seconded. Hearing no further discussion, the vote was called and motion was approved.

G. BOARD VOTE ON ADDITIONAL RECOMMENDATION

Houston-Torrence moved to strongly urge the APD to make stalking and protective orders training available, if not mandatory, for all its officers. **McDaniel** seconded. Hearing no further discussion, the vote was called and motion was approved.

OLD BUSINESS / NEW BUSINESS

No report of old or new business.

PUBLIC COMMENTS:

Vice Chair Brogdon opened the floor for public comments. He explained that the order of the speakers would be the same as each name appears on the form and that each participant has three minutes.

(Special Note: ACRB staff has made every effort to capture comments as stated by each speaker; however, in some instance the words may have been inaudible and therefore unable to transcribe verbatim. In such cases, staff attempted to capture, at best, the essences of the statement.)

First Speaker: Sara Khaled

I want to make a general statement first, just about the process. It is a little bit odd that the cases that you're investigating are closed for public comment, seeing as how people that are here are actually affected by them and have information that you might not have. And I know that Kevin that will be speaking later will talk about how one of the investigators actually had an incorrect fact. That may be something just to think about in the process. Also, the fact that the Citizen Review Board might dictate other citizens are able to speak. Tonight, I speak specifically on behalf of a Nigerian friend of mine named Ayo Oyakhire, who is currently in the city detention center, and I know that he is actually there because of ICE custody. ICE holds immigration detainees at the Atlanta City Detention Center. Mr. Oyakhire had a few complaints. Most of them were surrounding religious practices and his inability to exercise his religious rights. Mr. Oyakhire is a Muslim. There are also several complaints that Mr. Oyakhire and others have noted. Such as, guards taking advantage of the people on the ICE side, if they did not know English, and they would make fun of them, or would not really express to them the necessary information. Another complaint was it was very cold all of the time. Several people have told me about the guards bringing thermals and space heaters because even they know that it's freezing in there, that people state time and time again that they would like the heat to be put on, and they say that they do it so that infection cannot spread. Another complaint is not enough food...that people in the detention center are hungry, and on top of that, I visited with someone just yesterday who broke their leg. Rather than being given a proper boot to put their leg in, they were given a hand-me-down boot which only strapped on the very top of the boot, leaving their foot to move around consistently so that they cannot get the proper care that they need. This is in the aftermath of Mr. Patel, whom you all may know, died in Atlanta

City Detention Center earlier this year, and it seems that it occurred out of medical neglect. So, these stories of medical neglect are particularly concerning in that light. Thank you.

Second Speaker: Kevin Caron

I have some documents here I would love to share with members of the review committee that includes information about the actual offense. And there are digital copies as well. I'm here tonight as a friend of Mr. Ayo Oyakhire, and I'd like to clear up some of the discussion that I heard earlier. I would have loved to do this before you all made the decision, and I'm not sure I understand why we make decisions not consider some of the public commentary beforehand. But based on documentation that we have here, that's provided in this packet, we do have some of the facts. Some of us reached out to Investigator Fleming, a couple of times actually, as well as the investigator at the Department of Corrections, Jay Bornton and neither of them got back to me. Some of the details are wrong. Ayo was in fact deported. He's in Lagos, Nigeria, with a ten-year ban. He can't come back to the United States to his family and his two sons. At 3:30 p.m. on November 25, 2016, Lieutenant, now Captain Jackson, ordered Mr. Ayo Oyakhire be moved into segregation. The form that you'll find on page four, is a special copy of the location order that was actually written up by Jackie Lee. Mr. Lee indicated that Mr. Oyakhire was a security risk to himself. The reason for such confinement was being involved in an argument over the television "yelling and using racial slurs, raising concerns about his safety by continuing to be housed in a 518 pod. Mr. Oyakhire immediately requested not to be moved and repeated concerns about the allegations against him. He also requested to be placed in another pod in order to avoid being placed in segregation. These requests were denied, and he was moved to a segregation unit (inaudible). Again, I think they're classifying this as a disciplinary segregation but I want to be clear that administrative, medical, and disciplinary segregation are all 23-hour lockdown with one hour out where you're handcuffed and, take a shower in that one hour, exercise, and eat. He didn't have time to call his family over the entire holiday season. On December 8, 2016, after 12 days in isolation, Mr. Oyakhire was subjected to the 23 hours of isolation, and he completed an Inmate Request form to again request that he be released from segregation. The form was received by Officer Simpson, who responded in writing, "You're not on disciplinary status, and you need to write your classification unit." Well, the issue here is that, if you check down at the very bottom of page five, I'm bringing this to your attention, that Ayo make her aware and writes and I'm paraphrasing here, that as the person in charge of the hearing, that I'm in segregation and I've been here since November 25 and I've had no hearing. I've had no opportunity to address this issue. And I'd love to just return back to my unit." She said, "He's not on disciplinary status, and you need to write your classification unit." She wrote that on 12/12/2016. Ayo had no idea. He sat for an entire 25 more days in solitary confinement before he received this response with a signature on January 5, 2017. In total, he did over 45 days in solitary confinement. I want to remind you that Jean Carlos Jimenez-Joseph killed himself after 19 days of isolation at Stewart Detention Center in March of this year. So this is serious issue and we're worried about, I mean, we have people with mental health illnesses, they're facing all kinds of issues, and they're being forced into solitary confinement. The final thing I want to say is that upon his return, finally on January 10, he was put back into regular population, Mr. Oyakhire filed a complaint. The complaint is listed there on page six in this packet, and, you can see, it's not related to the complaint, it's just a response from the City through someone named A. Pritchett, at the Department of Corrections Office of Professional Accountability. It states that evidence gathered during the course of the investigations stems from your allegations. We came this evening hoping that you all would hear us out and consider that maybe, maybe there is something to this. He filed with them, they didn't do anything. We're coming to you. We're asking you to do something here. Why don't you use the subpoena power that you bring Jack Amos and Ms. Simpson in here, bring some of these folks who are responsible and who are supposed to be in charge of solitary confinement and how it works and question them! And then we would also like to know how many people are in this situation. I'm open to any questions. You have my contact information. I would love to talk further about this issue, and I would love it, if there was something you could do...go back and maybe reconsider this complaint, because this is not something to mess around about. People die in solitary.

Third Speaker: Priyanka Ott

Ms. Ott is legal fellow working with a criminal justice organization in Atlanta helping community with awareness and organizing against repressive public policy. She stated, "The Supreme Court states that intervention detention is meant to be civil and not punitive. And yet time and time again, we hear about these immigrants being treated inhumanely. I have spent the past month interviewing detained immigrants at the Atlanta Detention Center and I felt compelled to share their stories. Immigrants are being treated with an utter lack of dignity and respect. Officers yell at them, they belittle them, and they use derogatory language. So often, officers fail to explain the rules to them. So oftentimes detained immigrants don't even know what the rules are until it's too late. They are yelled and they're put on lockdown or they're thrown into solitary. One detained immigrant told me "They just throw you into solitary. They don't bother listening to your side of the story." The delay in medical attention is very problematic. One attorney, told me that his client who has detention, did not receive HIV medication for 30 days. Another detained immigrant told me that he did not receive mental illness medication for more than three weeks. Many others told

me similar stories. Any disruption in medication can have a detrimental impact. In fact, for HIV patients not getting medication for more than 30 days could lead to medication not working in the future. We are told of a huge lack of mental health help. Several told me they put in a request for mental health help over three weeks ago and had not heard back anything. In detention, the medical unit itself is a huge problem. One of the detained immigrants told me how the nurse harassed him, and made fun of him, and even videotaped him. Another told me that officers on duty at night would yell at you and curse at you when you asked for help, and they're told not to bother them. Again, these are people in the medical unit who are sick and they need the help. This, along with the outdated law library and the lack of resources shows that detention at the Atlanta Detention Center is being used as a punishment and not, as civil, which is unconstitutional. We ask the members of the ACRB to hold the officials running the Atlanta City Detention Center accountable. Thank you.

Fourth Speaker: Miriam Ahmed

Ahmed played a tape for the board that was previously recorded by a friend who is an inmate at Atlanta Detention Center. The recording also included a second person serving as the interviewer. The purpose of the board hearing the recording is to provide a first-hand account from an inmate of what isolation and solitary confinement is like inside the Atlanta City Detention Center.

[RECORDING Speaker A (Inmate speaking)] Isolation...solitary confinement is like serving time as a hard-core criminal. You're locked in there 23 hours a day, just one hour to take a shower, no access to the phone, that's basically it. You can't move out of your unit when they take you to solitary confinement.

[RECORDING Speaker B (Interviewer)]: Is this just you, or did this happen to other people while you were there?

[RECORDING Speaker A (Inmate)]: Well, I think people went on a hunger strike, and whenever you go on a hunger strike, that's what happens to you. They don't even leave the unit. They take you there and they notify the deportation officer or big supervisor to let them know that this inmate is on a hunger strike for whatever reason. You know, sometimes you think it's hopeless, but the Constitution amendments applies to immigrants from the fourth, fifth, six and eight. But when it comes to immigrants, it just doesn't exist. Because if you are an immigrant, they tell you to "just forget about it." So, based on that, the ICE officers they just go about their duty so arrogantly, so cavalier...like what can you do. I mean, they say that they have immunity for whatever they do to you, they have immunity as long as they don't physically assault you...it's just you, you feel hopeless or you feel, "Okay, what can I do?" And that's it, you go on hunger strike knowing that you've going into a worse situation but you just need something done. And in my case, I have a mortgage, I have a family, I was only supposed to be gone for three weeks and it went on two months and so on and so on. I was, like, "I could lose everything before those people let me out." (end of recording – copy of statement is on page 7 of the document distributed to board).

Armed: So he arrived at Hartsfield-Jackson Airport on May 3 of this year. ICE Officers refused him entry, due to a previous weapons charge of 1999, so almost 20 years ago, and asked him to consent to immediate removal, which he did. Then ICE redraw the removal order and detained him for illegal entry, although he was told the charge would be dropped and he could enter the U.S. again in five to ten years. He was in prison on May 4 into ACDC and was told that a court-appointed lawyer would visit him the next day and that his court date would be in a couple of days, which turned out to be completely false. It took him going on a hunger strike and being locked in solitary confinement to get to the charges looked at after a month of imprisonment. A month later, when his first court date finally came on June 27, no officer ever came to take him to court. He told me this was because he made a statement about medical neglect of a fellow inmate, an elderly man who injured himself (Patel), who was talked about earlier. Patel died at the detention center. Along with denying him his first court appearance, the officer held his mail and withheld information about the case. So, he did the only thing he could do, go on another hunger strike, which of course meant he spent more time in solitary confinement. He was given a second court date on July 20, almost a month after his first court date, and almost three months since he first entered ACDC. Finally, he was deported a week after. When I visited him right before he was deported, he told me about the medical neglect of his cellmate who had HIV. His cellmate was denied access to his anti-retroviral medication, causing his viral load to increase and making him very ill. Two weeks later, he was taken to a doctor who was stressing the importance of taking HIV meds. The officer finally gave him his medication a week after his doctor visit.

Fifth Speaker: Loretta Thompson

Thank you for having me included and allowing me to speak before you this evening. I also want to share a story with you as well. Imagine one morning you get up and you take your five kids to school. Let's say, upon returning moments later, your home is surrounded by federal agents who look like soldiers. You are taken into custody and carted off to a facility out of the way and unable to contact your family for a week. Later you're transferred to a

facility in a different state. This is what happened to Abdul Salaam Hussein of DeKalb County, Georgia. He was taken from his home by these agents. At a young age, he was forced to be a child soldier when he was a boy in Somalia and suffers from posttraumatic stress disorder, and has a mental illness. He was taking medication and receiving services under his wife's insurance to treat this illness, but in custody, Mr. Hussein was not allowed to take his medication and within days he was on suicide watch. After the transfer of Mr. Hussein from one detention center to another, he is now at ACDC. ICE continues to change his medication, which has led to further complications with his health. Our concern is that no one should be placed in solitary confinement as a form of imprisonment, and given the lack of proper treatment, the treatment of Hussein's mental illness, we fear that solitary confinement may be used to treat his disability. Prior to Mr. Hussein's detention, he was a loving father, a devoted father, devoted caregiver, he cared for his family and his kids, all of whom are American citizens. Mr. Hussein had completely turned his life around. He was at a point where he was about to open a restaurant with his wife, and he was very giving, giving back to his community. We know now that this administration is privatizing deportation of immigrants for a wide variety of reasons. So, community activists are asking that families aren't ripped apart and that consideration be granted for Mr. Hussein to be released from detention and returned to his family. Thank you.

Sixth Speaker: Dr. Kevin Simon

I am here on behalf of Physicians for Criminal Justice Reform. So, first of all, thank you for allowing me to be here. So I'm a psychiatry resident. My training and practice are assessing, diagnosing and managing patients who have various forms of mental illness within the realm psychosis, mood disorders, and trauma and then substance abuse, including diagnoses such as schizophrenia, bipolar disorder, opioid use disorder, and PTSD. I'd like to bring to your attention (inaudible) psychologically detrimental effects of solitary confinement. And so, solitary confinement, as has been noted already, is about 22-24 hours of isolation for individuals with an hour to bath and eat. Being in solitary confinement, in any normal individual considered without mental illness, can induce a psychiatric disorder when a person becomes hyper-sensitive to contact. Now you put a person in solitary confinement, you put them there for 12, 24, 45 days and then bring them out of solitary confinement to engage with other individuals, it's going to be a lot harder to do. They can then experience hallucinations, auditory or visual hallucinations, even in that individual who don't have mental illness. They show signs of cognitive decline, paranoia, and a litany of other physical and mental complications. Inmates who experience solitary confinement are more likely to develop poor control of anger, violent fantasies, trouble sleeping, as well as dizziness and heart palpitations. The evidence shows that suicide rates among inmates is already higher than the general population. Suicide rates among inmates who have experienced and/or are experiencing solitary confinement is seven times higher than general inmates. As was the case with Muvdi Ford and John Carter, a 27-year-old gentleman, in Stewart Detention Center in southern Georgia, they experienced solitary confinement for 19 days, then was released, and then eventually, he wasn't released and committed suicide while in the detention center. The fact that you can commit suicide supposedly while in a penitentiary that is supposed to be rehabilitating you, is problematic. Solitary confinement is a harsh measure which is contrary to rehabilitation. If we're supposed to take individuals for whatever number of reasons and arrest them and put them into a penal system that is supposed to rehabilitate them, if that person has an emotional outburst of some sort, the idea should not be to then segregate that person by themselves for 24 hours a day, for days on end, and for months on end. You are likely not to get that person to then come back out into regular society and be able to interact appropriately. So, considering the severe mental pains and suffering that solitary confinement can cause, it should be highly regulated, used under only exceptional circumstances, and used for the least amount of time. So again, you don't need to be in solitary confinement for instance, supposedly having a razor or bullying somebody, for 45 days. There seems to be something else that you can possibly do within 45 days, if you are in a detention center, to address behavioral issues. And so, at Physicians for Criminal Justice Reform, we have been bringing awareness to the issue of solitary confinement and just letting you guys know and potentially advise other institutions to try to use solitary confinement the least that is possible. Thank you again.

Seventh Speaker: Ron Jackson

(Note: Mr. Jackson case came before the board at tonight's meeting)

Thank you all for listening to our personal stories. I'd like you all to take a look at the outfit that I'm wearing. This was the outfit I had on the date of the incident. My friend was with me with balloons and flowers. When the officer arrived up on us, they stopped, jumped out of the car. "Which one of you two have weed?" If the undercover cop saw us, he didn't tell the officers arriving on the scene, "It's the one in the green and yellow or the one with flowers and balloons." We both look and asked, "Who are you talking to? What are you talking about?" He frisked the bag...emptied it on the back seat of his car. The other officer pulled my friend to the front. They didn't find anything, but he proceeded to put cuffs on us. I asked, "Are you going to arrest me?" He said, "I'm going to take you all around in the car, and I'll decide if I will let you go." Before he put us in the car, the officer took me from the sidewalk out into the center of the street on the driver's side at 4:10 p.m. in the evening, on Peachtree, in moving traffic. He tells me, "Mr. Jackson, I see you got your badge on." My badge...I work United Health Care as a HIV case worker. "Just tell me that it's your friend who had weed, and I'll let you go." I looked at the officer and I just

said to him, sir, please get me out the street. Before he got us into the car, he said to us, "Since I didn't find any drugs, I need to take you back to where they said you were and I'll get you for littering." I said, "Littering for what, sir? We didn't have anything to litter." And regarding the 'beedi' that you all were speaking about at the meeting here, a 'beedi' is a clove cigarette with a substance removed to help someone who smokes tobacco. A female on the job gave it to me to help you me break or curb my smoking. It did have horrible aftertaste, I told my brother, he said, "Let me see. That's the clove." I didn't keep it. By the time the officers get us over to the jail, he consistently badgered us, saying, "Well, I know you all had weed (the clove cigarette). You just tell me, I'll let you go." As we get over to...I think it was Precinct 5, now the officer is just driving us around in the car. We didn't know if we were arrested. He never told us... never read our rights. We get into this place, walk through the door and there are 36 guys standing there. They take our bag. He sits me here. He sits my brother on the side. He (my brother) had to pass his wallet and everything over me, with a \$30 gift card. They put the balloons and the flowers that he had on the counter. We needed to have phone numbers. He gave us the property back, so I could go in my bag. I was able to go in my wallet and pull out two of the cards I had with numbers on it. He passed my brother his bag to allow him to get a number, the \$30 scratch-off that he was given just for his birthday, fell out. He put it back in the bag and gave it back. I even said to the officer, "Make sure you lock his bag up so that he won't lose his items." They take us out and as they are walking out, the officers are talking. By the time they get us in the truck, they're standing outside arguing, cursing, one telling the other, "You know you don't have a damn thing on him. Why are you taking them through this?" They take us all the way to the detention center downtown. I am furious! The gentleman in the detention center, one of the guys happened to know me. He says to me, "Ron, what are you doing here?" And I told him what happened. He said, "You got caught up in what they call 'Swoop Night.'" So, if you all don't know, this Swoop Night happens on Thursdays. They come up, stop you and they put a false charge on you. When I get over to the detention hall is when I find out what I'm charged with. I'm charged with distributing alcohol and marijuana in Zone 5. I had to bail myself out to keep my job. It's my brother's birthday. The questions I have are, if you thought we had weed or did not have it, why didn't you arrest me and let my friend go on with his birthday? Why didn't the undercover tell you, "It was the one in the green and yellow and that it wasn't the one with the balloons and flowers." Why didn't you walk up and ask, "Which one of us had it?" Because it was a lie to plant a charge on us from the time when they got out of the car. So, I want you and the board members to know what Thursday night, Swoop Night, is about. If you don't know, go to the detention center and ask the inmate officer who books you in. I was told that in order to keep my job and not be caught up in all this, that I should just bail myself out. I bailed myself out but in this entire process, when my property was taken from me, we were at I-285 and Donald Hollowell. How do I get to my house and my personal possessions on Hollowell and I'm being released from the downtown detention center? I just wanted to make sure you had a clear understanding, because by listening to you all speak, you don't even have a clue of the system that's working to make money off of people for no reason and made up charges. You don't know what it cost me, sir. I don't have the means to finance all of this and to be booked on a false charge, to have to save my job and help bail a friend out on his birthday because it appeared a clove was identified to be marijuana and it wasn't. I want you all to review what you all do here in this city.

Eighth Speaker: Kevin Lee (1:55:37)?

I would again like to reiterate deep, deep concerns with the process of not allowing the citizens to speak, while their item of concern is still under consideration from the board. I would also like to highlight what Kevin spoke about earlier is the potential of misleading information that was considered by the board, in advance of making that decision and perhaps not considering all of the available information that was included in your package that we brought and distributed. It also seems that in light of the discussion just between the board in closed conversation, I understand that now, this is not an opportunity for a two-way conversation between the board and the citizens desiring to speak which disavow our opportunities to highlight items of concern that we would like to deposit for discussion by the board, to uncover a deeper conversation of what's going on. In the course of that conversation, it seems like there may be a knowledge gap of what conditions are actually like inside of ACDC, and I think that is only compounded by the fact that you're not hearing from the citizens. I would also like to call attention on the first page of what we handed out...the final two bullet points: (beginning words inaudible) assault productions and criminal records and protocols related to administrative segregation, as well as records and protocols related to mental health and HIV/AIDS treatment at the facility. If indeed there is a knowledge gap. I think it benefits everyone to understand what those protocols are and if they should be changed or if they're being adhered to correctly in light of systemic issues that we have all spoken about tonight. Thank you.

ADJOURNMENT

No further business, by show of consensus, the meeting adjourned at 8:45 P.M.

ACRB Minutes for October 12, 2017 were approved: November 9, 2017
Paul Bartels, Board Secretary

Transcribed: LG