ATLANTA CITIZEN REVIEW BOARD
MINUTES OF THE LAST MEETING
55 Trinity Avenue, SW, Committee Room Two
Atlanta, Georgia 30303
December 8, 2011 / 6:30 P.M

ROLL CALL

MEMBERS PRESENT
PAMALA ALINIECE (Aliniece)  ALAN MORRIS (Morris)
PAUL BARTELS (Bartels)  JOY MORRISSEY (Chair/Morrissey)
WILLIAM HARRISON (Harrison)  RUTH PRICE (Price)
BARTBARA HUBBARD (Hubbard)  MACEO WILLIAMS (Williams)
CHARIS JOHNSON (C. Johnson)

MEMBERS ABSENT
RYAN JOHNSON (R. Johnson)

VACANT APPOINTMENTS
Office of the Mayor (vacant 5 months)

STAFF ATTENDEES
MARC ADDINGTON, Investigator (Addington); WILLIAM CASTING (Casting) City Law
Department, Assigned Board Attorney; SHEENA ROBERTSON, Investigator (Robertson); MYOLA
SMITH, Transcriber (Smith)

AGENDA

MEETING CALLED TO ORDER
The meeting was called to order at 6:40 p.m. The Chair welcomed the Atlanta Police Department
represented by Lieutenant Sharonne Steed of the Office of Professional Standards. The Chair also stated
if anyone cared to participate in Public Comment at the end of the meeting, to please sign up. "Public
comment is limited to three (3) minutes per person and we are interested in what you have to say."

APPROVAL OF MINUTES OF THE LAST MEETING
The Chair asked if there were any corrections to the minutes of the last meeting held November 10, 2011
at 6:30 p.m. Hearing no corrections, by way of acclamation, the Chair called for a vote to accept the
minutes. The minutes were approved.
CONSIDERATION OF INVESTIGATION #11-62, COMPLAINT OF ABUSIVE LANGUAGE / INVESTIGATION BY MARC ADDINGTON

A. ALLEGATION

Addington reported complaint #11-62 involved an allegation of Abusive Language and False Imprisonment filed by a Complainant against an APD Police Officer. The incident occurred August 8, 2011.

B. WHAT THE INVESTIGATION REVEALED

According to the Complainant, he and his wife and daughter were in the area of Luckie Street in the parking deck near the Georgia Aquarium. While exiting the parking deck onto Luckie Street, the complainant paused at the exit to adjust his GPS when he observed an officer in a traffic vest and heard him basically say, “Move dumbass.” The Complainant indicated he became upset at what the officer said to him and gave the officer an obscene finger gesture. According to the Complainant, he proceeded out the parking deck and drove down the street about a block when the officer got into his private vehicle, a pick-up truck, and followed him in the opposite lane of traffic. The officer then pulled in front of him when he stopped at the traffic light. The complainant alleges the officer got out of the vehicle and approached the driver’s side of his vehicle and asked for his ID and also asked, “Do you always flip off police officers?” According to the Complainant, the officer secured his ID and proceeded to the back of the vehicle where he appeared to be checking his driver’s license and tags.

During the Complainant interview, he stated the officer was abusive and yelled continuously at him and eventually, gave his license back and allowed him to leave with a warning.

The Complainant’s wife was interviewed and she stated a similar fact pattern as that of her husband. The wife claimed the subject Police Officer said “move dumbass” and she admitted that her husband made an obscene gesture with his hand. Her statement was also consistent with her husband indicating they drove about a block down the street when the officer stopped them in his private vehicle, and secured her husband’s license. According to the wife, while the officer was running a check, she leaned out of window and asked him if he could just forgive them and that the incident was just a misunderstanding. In response, she alleges the Officer told her that if her husband had an issue, he could step out of the vehicle and they could take care of it. She also stated that the officer gave back the license and allowed them to leave with a warning.

The subject Officer was interviewed and he indicated that he was working an extra job in the area, when he observed the complainant leave the parking deck and give him an obscene gesture. The Officer said he was concerned that maybe this was an incident of road rage and that was why he went to stop the vehicle. According to the Officer, he did not believe that his stop was actually a traffic stop because the car was stopped at a red light a block down. He stated that he did take the license and he checked the vehicle tag and as soon as he learned there were no warrants on the vehicle or individual, he allowed them leave with a warning.

During the interaction with the complainant, the officer stated that he did curse but he was cursing at somebody else near the location. However, it should be noted, at the beginning of the interview with the officer, he stated he did not curse and when asked again, he stated that he may have cursed at somebody else in the area, but he could not recall.

C. STAFF RECOMMENDATION

Based on these facts and testimony from the complainant’s wife and the Complainant who stated that the Officer did use abusive language as well as detained them for a period of time, the staff
recommends a finding of **Sustain** in the allegation of Abusive Language and a finding of **Sustain** in the allegation of False Imprisonment.

**D. BOARD VOTE ON STAFF RECOMMENDATION**

Before calling for a motion, **the Chair** entertained discussion.

Questions from the Board...

**Bartels** asked if the warning that was given by the Officer, to the Complainant, was for a particular offense. **Addington** indicated that the warning was for the obscene gesture. **Bartels** also asked, “Is there any statement that the Officer used his vehicle to block their vehicle or did he park it alone side them?” **Addington** stated that the officer parked on the opposite lane of traffic.

The **Chair** called for a motion. **Bartels** moved to adopt staff recommendation of sustaining both complaints. **Williams** seconded. Hearing no further discussion, the motion was approved.

**E. RECOMMENDATION TO CHIEF TURNER REGARDING DISCIPLINE**

**Addington** indicated that both disciplines are a category ‘A’ with a penalty of oral admonishment or a written reprimand and training. The Officer has not had any incidents for the past six (6) years.

- **Price** made a motion for the Officer to receive a written reprimand for the violation of Abusive Language. **Williams** seconded. Hearing no discussion, the motion was approved.

- **Price** also moved for the Officer to receive a written reprimand for False Imprisonment. **Williams** seconded. Hearing no discussion the motion was approved.

**REVIEW OF INVESTIGATION #11-70, COMPLAINT OF FALSE IMPRISONMENT / INVESTIGATION BY MARC ADDINGTON**

**Investigator Addington** provided an overview of ACRB’s investigation into complaint #11-70. The incident involves an allegation of False Imprisonment.

**A. SUMMARY OF ALLEGATION**

**Investigator Addington** reported that the incident occurred May 30, 2011 at the location of 45 Ivan Allen Blvd., at the Bliss Spa located in the W Hotel at that location. There were two APD Police Officers involved in this matter. According to the complainants, they were at the Bliss Spa attempting to redeem a coupon for a discounted price. After completing their spa treatment, they started to leave the location but were stopped and informed by the manger and employees that they had to pay the gratuity which is 18% of the full price not the discounted price. The complainants advised the staff that they were willing to pay the 18% on the discounted price but not the full price of the coupon.

**B. THE INVESTIGATION AND WHAT WAS REVEALED**

**Addington** reported that the coupon was presented to him and there was stated, in small fine print, 18% gratuity should be paid on the full price. However, the complaints maintained they only wanted to pay the tip on the discounted price. The complainants were told by the Manager they could not leave and the hotel security then secured the door where they could not leave. Subsequently, the manager called the Atlanta Police. The officers arrived at the location. Both officers advised the complainants they needed to pay the tip. Also, at one point, the officers said they had to either pay the tip or go to jail. The complainants still refused to pay the tip and at that point, the officers handcuffed both of them. One of the complainants seemed very surprised and
shocked that they were being arrested for refusing to pay the tip although, she was willing to pay a tip on the discounted price. She asked the officer if she paid the tip, would she not go to jail and the officer responded yes. She then paid the tip on the full amount. They were un-handcuffed and allowed to leave with a criminal trespassing warning.

C. INVESTIGATIVE FINDINGS

Interviews:
The officers in question were interviewed and basically gave the same fact pattern as the complainants. They said they arrived on the scene and informed the complainants they had to pay the full amount. When they refused, they placed one of the complainants in handcuffs and the other complainant’s cuffs were placed on her shoulder as they pulled her hands behind her back. The officers said that at that point, the Complainant, who was fully cuffed, stated she would pay the tip and they removed the cuffs and allowed them to leave with a criminal trespassing warning.

When the officers were questioned about what crimes they believed occurred to justify the detention of the complaints, they said they believed it was theft of services.

The Georgia code, section O.C.G.A 16-8-5 defines theft of services as “A person commits the offense of theft of services when by deception and with the intent to avoid payment he knowingly obtains services, accommodations, entertainment, or the use of personal property which is available only for compensation.”

D. STAFF RECOMMENDATION

The officers indicated that they understood the dispute between the management and the complainants was over a gratuity not the payment for the service provided. Having understood this, the officers should have known that this dispute did not meet the required threshold for theft of services. The failure to pay a required gratuity is a matter best suited for the civil courts. The initial detention by the officers is permitted so the officers could do an initial investigation of incident; however, one of the officers indicated the coupon presented had expired, but this was not an issue because the Spa accepted the coupon. After learning the origin of the dispute, the officers subsequent detention and handcuffing of the complainants with the threat of jail on the condition of payment was inappropriate and not within APD policy.

The staff recommends a finding of Sustain in the allegation of False Imprisonment against both Officers.

Discussion/Questions...

1) To clarify, Price asked if the incident was considered a civil matter. Addington replied, yes. Price also asked how long the officers have been on the police force. Addington said, “One of them has only been on the force a little over a year. The second officer has been with the department for about two years.”

2) Williams asked, “Did you say the print was smaller than the rest of the print on the coupon? Which they could have overlooked because it was too small.” Addington replied, “Yes, it is possible, but although that is just not a question…you can’t force someone to pay gratuity.”

3) Hubbard agreed with the comments about forcing payment of a gratuity. She also expressed concerned that the officers were involved in what was clearly a civil case.

4) Aliniece asked, “Is this just a situation where the officers are working so much overtime, maybe a second shift alone with their regular shift. I asked this because it seems they weren’t thinking at all.” Addington said, “One of the officers was actually working an extra job at an office building adjacent to the W Hotel. This officer was the primary officer. The call was assigned to the officer who was working
his regular job and the officer working the extra job, heard the call on the radio and responded as well and that is how both came to be at the location."

5) Williams, “Didn’t the ladies tell the officers they also thought this was a civil matter?” Addington responded yes.

6) Price asked Addington did the officers tell the complainants what they were being charged with. Addington responded, theft of services. Price, “Did the officer ever mention to the complainants that he was going to charge them with criminal trespassing?” Addington responded, “No, he said ‘theft of services’ is what he believed it was and he just gave them the criminal trespassing warning and let them go.” Price responded, “That was inappropriate.” Addington said the Manager indicated that he did not want the complainants to come back to the location. The complainants indicated that the staff was very rude and abrasive. The manager called hotel security, detained them and locked the door until the officers arrived.”

E. VOTE BY THE BOARD TO ACCEPT RECOMMENDATION

- It was moved by Harrison and seconded by Bartels to accept staff’s recommendation to sustain the allegation against Officer One. Hearing no discussion, the motion was approved by all.

- It was moved by Bartels and seconded by Harrison to accept staff’s recommendation to sustain the allegation against Officer Two. Hearing no discussion, the motion was approved by all.

F. THE BOARD DECIDES DISCIPLINE

It was moved by Harrison to recommend, to Chief Turner, a written reprimand against Officer One, as well as, pro-active/corrective action being training. It was also recommended that a copy of the board’s recommendation to Chief Turner be sent to the W Hotel Manager and the Bliss Spa management. Williams seconded. Hearing no further discussion, the motion was approved as stated.

It was moved by Harrison to recommend to Chief Turner, a written reprimand against Officer Two, as well as, pro-active/corrective action being training. It was also recommended that a copy of the board’s recommendation to Chief Turner be sent to the W Hotel Manager and the Bliss Spa management. Williams seconded. Hearing no further discussion, the motion was approved as stated.

INTAKE REPORT FOR NOVEMBER, 2011

A copy of the Intake Report was presented by Investigator Robertson. A total of seven (7) complaints were received for the month of November, 2011. Staff recommended investigating two (2) of the complaints and dismissing five (5) complaints. The following is a list of those complaints and recommendations by the staff:

- Complaint #11-81 / alleging False Imprisonment
  Staff recommends investigation as a false imprisonment allegation.
- Complaint #11-82 / alleging Harassment
  Staff recommends investigation as a complaint of harassment.
- Complaint #11-83 / alleging Service Complaint
  Staff recommends dismissal because the matter is not within the ACRB’s jurisdiction.
- Complaint #11-84 / alleging Rudeness
  Staff recommends dismissal because the matter is not within the ACRB’s jurisdiction.
- Complaint #11-85 / alleging False Imprisonment
  Staff recommends dismissal because it does not appear that there is any merit to the claim.
Complaint #11-86 / alleging Poor Service
Staff recommends dismissal because the matter is not within the ACRB’s jurisdiction.

Complaint #11-87 / alleging Poor Service
Staff recommends dismissal because the matter is not within the Board’s jurisdiction and the complaint is six (6) years old.

The Chair entertained a motion to accept the Intake report and recommendations. It was moved by Morris to accept the Director’s report. The motion was seconded by Bartels. The Chair called for a discussion. Hearing none, the motion was approved by all.

PERSONNEL SEARCH COMMITTEE REPORT

The Chair turned the meeting over to Morris, Chair of the Search Committee. Morris reported that the committee had assisted in hiring an Interim Director. He said, “It is my understanding that the contract has been completed. Is that true (to the Chair)?” Morrissey responded, “It has not been executed yet but it should be by tomorrow. There are some changes that were not in place last week.” Morris asked Chair Morrissey to please explain those changes. Morrissey stated, “The contract is exactly the same with a couple of changes. One is reimbursement for usual expenses like parking fees and photocopy cost and any mileage above travelling to and from the office at the standard IRS rate. Also, the price will still be at the reduced rate of $65 for a practicing attorney up to 12 hours a week. Any additional hours would have to be pre-approved by the Chair. This rate is effective until February 10th and after February 10th, the fee rate would go up to $130 per hour for the 10 to 12 hours per week. The reason for that is the later in time it goes until we have an Executive Director in place, the more it is going to cut into Ms. Shields’ personal time and time of her law practice. This is an interim position and that increase should help to motivate our Personnel Committee’s search and for Human Resources to support us in our search for an Executive Director.”

Morris indicated that last week, several people had expressed a desire to meet and ask questions of the person selected by the search committee to recommend to the Board. “I think this would be an appropriate time for that to happen. Sharese, would you introduce yourself to the group and tell us a little about yourself for those who don’t know who you are.”

Ms. Shields approached the podium and provided a brief summary of her professional career including her history with ACRB. She said, “Most of you all know who I am. I sat on the Board for about four years. I was the Chair when the Board was first created. I served in that role for approximately one year and a half. I am a practicing attorney and have been for at least 12 years now. I have done criminal defense work and prosecution in Chicago. The majority of my practice is devoted to representing public schools educators. I do criminal defense work but most of it is not within the City of Atlanta. I am happy to help the Board. I feel vested in the Board even though I have been off the Board for a few months. I remember when the Board started from zero and the board has done an amazing job. I know what it feels like to devote the level of attention and commitment many of you are devoting. I am happy that I can help in this capacity. Although, I am being paid, I still view it as a service and I will do whatever I can to make sure there is a smooth transition in your search for your permanent replacement.”

Discussion/Questions...

1) Harrison indicated he had not yet seen the amendment to the contact. He asked if she would be opposed to him taking a look at it. Shields said, “Absolutely not, I think it is appropriate.” Harrison also asked her to clarify the request to be reimbursed for copy charges. “Doesn’t the City pay for copy charges?” Shields said, “I don’t necessarily anticipate there will be much copying, but realizing the contract only provides for about 12 hours a week, there may be some instances where I am in my law firm and I get a call from someone and have to print something. If I am in my office, I am asking to be reimbursed for copying cost or something like that.”
2) **Williams**, "It is good to see you and I have a question. In the past, the board has had ethics classes which you and I have attended along with other people currently on this Board. I had concerned about the one-year cooling off period after you come off the Board. In the past, John Michael took a job with the City and he had to resign because he took the job. Why is it you feel this is OK for you to take job and is wasn’t OK for John? Whether is it ethical or not, please explain."

It should be noted at this point, **Morrissey** asked **Bill Casting**, City assigned attorney for the Board, to address **Williams’** concerns. **Casting** explained that hiring **Ms. Shields** was not a violation of city code. "This question was put again to the current head of Ethics, Ms. Ja’Bu Sengova. Basically, she cited this...The Code of Ethics with City employees for a year, does not have the same restrictions on City contractors or City Board members who are hired to do work for the City." **Casting** also added that he and Ms. Sengova looked at the City Code and was able to confirm there was no violation. According to Section 2-810, Representation After Separation from Employment, it basically says in a situation like this, where you are going to work for the City, you will not have that one year restriction; but if you were at the City and you were going to work for an agency that does work before the Board, you would have to stay off for one year.

The Board resumed discussion and questions of **Ms. Shields**.

3) **Williams** asked for an explanation regarding the difference in the $65.00 compared to $130.00 hour. "This additional rate was something that was not discussed before and I don’t believe it was mentioned in the minutes. Why $130.00 per hour compared to $65.00 which is double." **Shields** said, "Not sure what more I can say...that is substantially less than my hourly rate which is doubled the $65.00. I am not looking to make money off this, and it is your (Board) decision as to whether or not you want to retain me. I have a busy law practice. I am doing this out of a sense of loyalty but I cannot take time away from my paying clients to do essentially, what amounts to pro-bono work. Despite how much I love the Citizen Review Board, I have to make a living."

4) **Harrison** interrupted and said, "Let me just say that I think that any explanation with regards to fees, maybe inappropriate in this particular forum right now."

5) **Alinniec** said, "It would be best to have someone who knows the Citizen Review Board. Frankly, it would be real scary to me to have someone new in this position. The fact that you (Shields) are here and willing, I am excited to have you."

6) **Price** said, "I am one of the members who expressed an interest in meeting you because I am new on the Board. Given the tenure of the other board members, I will be one of the last members standing because I was just recently appointed and I have a three year commitment. I would love to be a part of the Search Committee looking for a permanent Executive Director. Being one of the last members to stand, I think I should be a part of that process because everybody else seems to be leaving before me. I am appointed to 2014."

7) **Morris** expressed he was also delighted to have **Ms. Shields**. "I think we are lucky to have you Ms. Shields. I echo the comment recently made about having someone with the familiarity of the Board and a long tenure with the Board, giving us guidance. I feel we are going to need it."

Following the comments and questions to **Ms. Shields**, it was moved by **Williams** to accept Ms. Shields as the Interim Executive Director. **C. Johnson** seconded. Hearing no further discussion, the motion was approved.

The **Chair** stated the agreement is signed, "It is almost a done deal after tomorrow."
ROBERT'S RULES OF ORDER
At this time, it was moved by Morris to go into Executive Session. The motion was seconded by Bartels. Casting asked for clarification as to the reason for the Executive Session. The reason was not noted publicly. Hearing no further discussion, the motion was approved.

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Executive Session started at 7:35 PM and ended at 8:15 PM
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It was moved by Morris to end Executive Session and asked the public to return. Williams seconded the motion. Hearing no discussion, the motion was approved.

COMMUNITY OUTREACH PLAN

Williams, Committee Chair, reported that each member received a copy of the Community Outreach Plan in the board packets. “We have been working on this plan for the last few months. Please take it home and look over it for the next month or so, and note your comments for discussion at the next meeting.”

The Chair expressed appreciation to everyone who worked on the committee. She said, “This is an absolutely wonderful report. It looks like everything I dreamed for it to be. For the record, on Saturdays, I am usually working and Wednesday, I am typically working as well and I haven’t been able to serve on the committee, but this plan looks fantastic. I believe that Myola (Smith) gets many, many kudos and thanks because this looks like a lot of work and thank you for doing that.”

PUBLIC COMMENTS

Chair Morrissey opened the floor for public comments. Two people had initially signed up to speak: LaToya Johnson and Renee Bailey; however, they left before Executive Session ended.

ADJOURNMENT

Chair Morrissey entertained a motion to adjourn. C. Johnson moved to adjourn the meeting. The meeting adjourned at 8:20 p.m.

Approved as to form and content,

Alan Morris
Board Secretary

Signature

Date: 01/12/12