ATLANTA CITIZEN REVIEW BOARD
MINUTES OF THE LAST MEETING
MAY 12, 2011, 6:30 P.M.
55 TRINITY AVENUE, S.W., COMMITTEE ROOM ONE, ATLANTA, GEORGIA 30303

ROLL CALL

MEMBERS PRESENT
PAMALA ALINIECE (Aliniece)
PAUL BARTELS (Bartels)
BARBARA HUBBARD (Hubbard)
CHARIS JOHNSON (C. Johnson)
RYAN JOHNSON (R. Johnson)
JOY MORRISSEY (Chair/Morrissey)
SHARESE SHIELDS (Shields)
MACEO WILLIAMS (Williams)

MEMBERS ABSENT
ALAN MORRIS (Morris)

Two Vacant Appointments to the Board
City Council President's Office (vacant 13 months)
City of Atlanta Council Members (vacant 5 months)

STAFF ATTENDEES

MARC ADDINGTON, Investigator (Addington); CRISTINA BEAMUD, Executive Director (Director/Beamud); SHEENA ROBERTSON, Investigator (Robertson); MYOLA SMITH, Administrative Analyst (Smith/Transcriber), MYOLA SMITH, Administrative Analyst (Smith/Transcriber), WILLIAM CASTINGS, Attorney, COA Law Department (Castings)

MEETING CALLED TO ORDER:

The meeting was called to order at 6:30 p.m. The Chair welcomed guest, citizens and members of the Atlanta Police Department including Major Elder Dancy and Lieutenant Sharrone Steed, APD, Office of Professional Standards.

AGENDA

APPROVAL OF MINUTES OF THE LAST MEETING (Agenda Item II):

The Chair entertained a motion to approve the minutes of the last meeting held April 14, 2011 at 6:30 p.m. It was moved by Bartels to accept the minutes of the last meeting. The motion was seconded by R. Johnson. No discussion, the motion was approved.
CONSIDERATION OF INVESTIGATION 10-68, COMPLAINT OF TOYA PATTERSON—EXCESSIVE FORCE (Agenda Item III):

The Chair directed members to Agenda Item III, Director Beamud’s memo to the Board dated May 4, 2011 summarizing the investigation of Complaint #10-68. Investigator Marc Addington conducted the investigation and provided a summary of the complaint.

A. ALLEGATION SUMMARY

Addington reported that Ms. Toya Patterson filed a timely complaint on December 20, 2010 alleging that Officer Pettaway unlawfully imprisoned her and used abusive language when he responded to a call by her landlord for assistance in entering her home and inspecting the rental property.

Ms. Patterson complained that her landlord, Gillian Elliott, called for police assistance to conduct an inspection of her home. They had a disagreement the previous week where Ms. Patterson called the police to have Ms. Gillian escorted from her home. For this reason, Ms. Elliott called the police for assistance. Officer Pettaway responded and Ms. Patterson claims that the officer came to her home and pushed the door and told her to move and stand “right there” and allowed Ms. Gillian and members of her family into the home. She claims that Officer Pettaway told her that she could not stop someone from entering her home and that if she wanted to stop someone from entering; she needs to buy a house. She asked the officer about her rights and he said she had none. She stayed near the front door with Officer Pettaway while the others inspected her property.

B. THE INVESTIGATION AND INTERVIEWS:

Addington stated that Ms. Patterson’s sons were present and were interviewed. D’tavis Patterson, who is 13 years-old, said he observed the police officer tell his mother to wait near the front of the house. He did not hear the officer say anything regarding his mother’s education or ability to buy a house. He heard his mother ask Officer Pettaway if the landlord was justified in entering her house, to which Officer Pettaway responded, ‘yes.’ He indicated that Officer Pettaway stayed at the front of the house.

De vonttious Patterson, age 10, was interviewed. He said that he observed the officer tell him to move. He followed the landlord as they moved around the house and did not hear the officer say anything offensive to this mother.

The landlord, Gillian Elliott was interviewed by phone because she lives in Texas. She contacted the police because there was a previous incident where her tenant, Ms. Patterson, would not allow her access to her house. She was there when Officer Pettaway arrived. She described that Officer Pettaway explained to Ms. Patterson that the landlord needed to gain access to the house and she entered and inspected the property while Ms. Patterson and Officer Pettaway stayed at the front of the house near the front door. She said that Ms. Patterson became irate when they were leaving and she asked Officer Pettaway for his name and badge number. The officer gave her the information and she said that Officer Pettaway was courteous and professional and did not say anything derogatory to Ms. Patterson about her education.

Wayne Elliott is Gillian Elliott’s brother and was interviewed by phone. He said that Officer Pettaway told Ms. Patterson that the landlord had the right to inspect and she should let the landlord inside the house. Officer Pettaway stood near the door at the front of the house with Ms. Patterson and he did not witness the officer say anything discourteous to Ms. Patterson.

C. OFFICER INTERVIEWS

Officer Jonathan Pettaway said that he was dispatched to assist the landlord because they were afraid that Ms. Patterson would cause problems. He explained to Ms. Elliott that he could not force Ms. Patterson to allow her access to the house. Ms. Elliott understood but wanted the officer to stand by in
case Ms. Patterson became violent. He said that Ms. Patterson opened the door and allowed Ms. Elliott to enter. He said that he stayed near the front door of the house with Ms. Patterson as the landlord inspected the property. Ms. Patterson appeared angry and he advised her that if she did not like the terms of the lease that she should buy a house rather than rent. He claims that he did not force the door and he never said anything derogatory to her about her level of education. He was accompanied by Officer Krawczyk and Cenac.

**Officer Krawczyk** said that he witnessed the interaction between Officer Pettaway and Ms. Patterson. He said that Ms. Patterson was upset with the landlord but allowed the inspection. He said that Officer Pettaway stood near the front door of the residence while interacting with Ms. Patterson.

**Officer Cenac** responded and said she witnessed a portion of the interaction. She said that the interaction was normal and she left shortly after she arrived.

D. **STAFF RECOMMENDATION REGARDING COMPLAINT #10-68**
The witness statements in this investigation reveal divergent views of what occurred. Neither version was collaborated. For this reason, the staff recommends **Not Sustained** to both allegations.

E. **BOARD VOTE ON STAFF RECOMMENDATION**
The **Chair** opened the floor for discussion regarding Toya Patterson’s complaint.

Following a brief discussion, the **Chair** called for a motion regarding the recommendation of the staff.

It was moved by **Williams** to accept staff recommendation to **‘Not Sustained’** both allegations of ‘unlawful imprisonment’ and ‘abusive language’ to against Officer Pettaway. The motion was seconded by **Hubbard**. Call for discussion. No further discussion, the motion was approved with one (1) No Vote from **Bartels**.

**CONSIDERATION OF INVESTIGATION #10-70 – COMPLAINT OF DAJUAN CLOUD**
(*Agenda Item IV*)

The **Chair** directed members to Agenda Item IV, Consideration of Investigation #10-70. **Investigator Addington** provided an overview of the complaint.

A. **SUMMARY OF ALLEGATION**
**Addington** reported that Dajuan Cloud filed a complaint alleging that Officer Bryan French used excessive force and abusive language during an arrest on December 13, 2010 on Arthur Langford Parkway. He described that the Atlanta Police Department struck him with a police car and the officer used abusive language after he arrested him. Mr. Cloud reported that he fled from the police after being stopped by the officer for ‘no reason.’ He claimed that as he was driving, he lost control of his vehicle and crashed on Langford Parkway. When attempting to leave the site, an officer struck him with his vehicle. He was knocked down but got up and began to run. He was arrested after being ‘shocked.’ Mr. Cloud alleges that Officer French called him a ‘bitch,’ after he was in custody. Mr. Cloud said he fled because he was scared of the police.

B. **WHAT THE INVESTIGATION REVEALED**
The police report indicates that Officer French tried to stop the car because it was possibly stolen. The car took off and he pursued the car. The suspect crashed the car and was ‘bailing out.’ Officer French then pursued Mr. Cloud on foot. The East Point Police Department assisted because this was in their jurisdiction. Officer French called for help and advised the dispatcher to send an ambulance for his own injuries. Officer French indicated that after he caught up with Mr. Cloud, he was combative and the East Point police officer tasered him.
Officer French was not interviewed by the ACRB staff; however, an interview was conducted by the Office of Professional Standards. Officer French admitted that he struck Mr. Cloud with his vehicle. He explained that he observed Mr. Cloud reaching behind his waist when he approached the car. He said that Mr. Cloud refused to comply with his commands to remove the car keys and throw them out of the window. He ordered him to place his hands in the air and Cloud drove away. Officer French got back in his car and initiated a pursuit. The car spun out of control and stuck the median wall. He said that as he was approaching the scene of the accident, he observed Cloud get out of the passenger side of the car and he observed a holster on the back of his pants. Officer French was five (5) feet away from Cloud and after he saw the holster, he believed Mr. Cloud was armed. Officer French ducked down and took cover under his dashboard and he inadvertently struck Mr. Cloud. He saw Mr. Cloud fall but he got up and continued to flee. He pursued him on foot and suffered an injury during the chase. He later learned that Cloud was arrested by East Point Police officers. Officer French was transported to Grady for treatment and did not participate in the physical arrest and transport of Mr. Cloud.

C. STAFF RECOMMENDATION

There is no dispute that Mr. Cloud was struck by Officer French’s car. Mr. Cloud alleges that Officer French struck him in an effort to prevent him from fleeing. Officer French states that he believed Mr. Cloud was armed and he inadvertently struck Mr. Cloud in the leg with the car while trying to duck beneath his dashboard. Mr. Cloud wrote that Officer French also shocked him and called him names. The East Point Police reports indicate that Police Corporal Samuel Fillers used the taser to subdue Mr. Cloud. Mr. Cloud also says that Officer French used abusive language after he was arrested. However, Officer French had no contact with Mr. Cloud after he was arrested.

For this reason, the staff recommends that the Board ‘Not Sustain’ allegations of Excessive Force and the allegation of Abusive Language be ‘Unfounded.’

D. VOTE BY THE BOARD REGARDING STAFF RECOMMENDATION

Following the conclusion of Addington’s summary, the Chair entertained a motion on the recommendation.

It was moved by Bartels to accept the staff recommendation to ‘Not Sustain’ the allegation of Excessive Force and the allegation of Abusive Language assigned ‘Unfounded’ against Officer Bryan French. The motion was seconded by Shields. The Chair called for the discussions. Following a brief discussion, the motion was approved.

CONSIDERATION OF INVESTIGATION #10-71 – COMPLAINT OF ALLAN KING (Agenda Item IV)

The Chair directed members to Agenda Item V, Director Beamud’s memo dated May 5, 2011 Summary of Investigation #10-71. Investigator Robinson provided an oral summary of the investigation.

A. SUMMARY OF ALLEGATION

Investigator Robinson reported that Mr. Allan King filed an unlawful imprisonment complaint with the ACRB. Mr. King alleges that Atlanta Police Officers Eric Wheeler, Jonathan Davis and Ronald Stoddard falsely imprisoned him when they detained him without any legal justification, December 2, 2010.

B. WHAT THE INVESTIGATION REVEALED

Interview with Mr. King...Mr. King stated that on the evening of December 2, 2010, he was walking in the parking lot of the Lenox Square Mall en route to the Apple store when APD offices Wheeler, Davis, and Stoddard drove up in an unmarked van and stopped him. Mr. King said the officer seated in the front passenger side of the van asked him if he was stealing cars. He said he told them that he did not know
anything about cars being stolen in the lot and that he had just walked onto the lot from the nearby crosswalk. At that point, he said all three officers got out of the van and approached him. He said the driver then asked him where he was going in the mall. Mr. King said he told the officer he was Christmas shopping and was going to the Apple Store. He said the officer told him there was a Georgia Law which prohibits anyone from walking on a parking lot if that individual does not have a car on the lot. Mr. King said that the officer seated in the back of the van on the passenger side asked him for identification, which he surrendered. The officer checked the ID and returned it and in a loud voice told him to leave.

Mr. King stated that he was detained by the officer for approximately 10-15 minutes before he was free to go on his way.

**Interviews with Officers...** According to Lieutenant Terry Joyner of Zone 2, on the day of the incident, Officers Wheeler, Davis and Stoddard were assigned to patrol the Lenox Mall parking lot because reportedly, a large number of pedestrian robberies and car break-ins were occurring during the evening hours of the holiday season.

1. **Officer Jonathan Davis** was the driver of the vehicle. He stated that during roll call, at the beginning of the shift, they were advised by Sergeants (Ronald) Bender and (Michael) Harty not to allow anyone to walk through the parking lot if the person did not have a vehicle parked therein because of a large number of larcenies reportedly occurring in the area. Officer Davis said while patrolling the area, they observed Mr. King, walking through the lot so they stopped him and asked him for his name; however, Mr. King did not respond. Officer Davis said he again asked Mr. King for his name but he still did not respond. Officer Davis said he then exited the van and asked Mr. King how he was doing and at that point, Mr. King put his hands behind his back. Officer Davis said this move led him to believe that Mr. King may be reaching for something so he issued him a verbal command to show his hands. At that point, Officer Wheeler and Stoddard had exited the van. He said Officer Wheeler asked Mr. King for his identification but was unaware whether or not the identification had been checked on ACIC (Atlanta Criminal Information Center). Officer Davis said after they returned Mr. King’s identification, they explained to him that he could not walk through the parking lot if he did not have vehicle parked thereon.

2. **Officers Wheeler and Stoddard** gave a different reason why King was stopped. According to them, they observed Mr. King positioned between two cars and it appeared to him that Mr. King was looking into car windows. They said they also noticed that King did not have any keys in his possession. They then drove up to Mr. King and asked him what he was doing in the parking lot; but, Mr. King did not respond. They repeated the question but again, Mr. King did not respond and instead put his hands behind his back. They exited the vehicle, approach Mr. King and again commanded him to show his hands; he then complied. Officer Wheeler said they asked him for his identification. According to Officer Wheeler, they checked the identification via ACIC radio and it came back okay. Officer Wheeler could not recall which officer asked for the identification or who ran the computer check. Mr. King was then allowed to go on this way.

3. **Officer Stoddard** said after they returned the identification to Mr. King, they said to him, “In the future, walk around the parking lots instead of walking through them.”

**C. DOCUMENTARY OF EVIDENCE**

1. **Police Radio Transmissions.** According to the transmissions contained on the CD-ROM, there was no indication that a check of Mr. Allan’s identification was ever conducted.

2. **MDT.** None of the officers utilized their vehicle’s Mobile Data Transmissions (MDT) computer to check Mr. Allen’s status.

3. **APD SOP.3065, Section 4.1.1** that governs field interviews/pedestrian stops, “Before an officer stops a suspicious person, the officer will pull out of service with the dispatcher and give the following information; location, number of persons, sex, race, approximate age, and clothing
description…” During the interviews with Officer Davis, Wheeler and Stoddard, they all indicated that they did not follow this procedure and notify dispatcher prior to their encounter with Mr. King.

D. STAFF RECOMMENDATION
Based on the facts presented, the ACRB staff recommends the following:

Regarding the allegation of False Imprisonment against Officers Eric Wheeler, Jonathan Davis and Ronald Stoddard assign a finding of ‘Sustained.’ The recommendation is based on the officers did not possess reasonable suspicion to stop Mr. King. He was stopped for merely walking in the Lenox Square Mall parking lot. The officers’ detention of Mr. King was based upon nothing more than his mere presence at the location where there have been a reportedly, large number of pedestrian robberies and car break-ins and this violated his rights to be free from unreasonable seizures under the Fourth Amendment. It is noted that the APD SOP which governs stops of suspicious person, requires officers to provide information to the dispatcher when they stop suspicious persons. Further, the law requires that stops of this sort be based on reasonable suspicion. There was no articulable reason for this stop.

E. VOTE BY THE BOARD REGARDING STAFF RECOMMENDATION
Following the conclusion of Robertson’s summary, the Chair opened the floor for questions and a motion on the recommendation.

Discussion/questions...
1. Shields asked, “Regarding ‘hot-spot overtime,’ is this something that off-duty officers work?” What is this?” Robertson replied, “According to the Lieutenant, hot-spotting is just overtime, where off-duty officers are assigned.” Shields, “Are they in uniform?” Robertson, “They are in uniform and they were in a marked vehicle.” Shields, “I was troubled to see that there were three rookies, they all started about the same time, and no senior officer with them. Is there any sort of policy that we know of that speaks to assignment of officers in hot-spot with a senior officer especially, a place like Lenox Mall?” Robertson responded, “Not that I am aware of.”

2. Chair Morrissey stated, “If I remember correctly, during Christmas time, regarding the hot-spot details, the City received a federal grant for extra officers to work overtime to provide more coverage of the malls and other high crime areas experiencing larcenies during the Christmas season.” Beamud indicated that these are not extra jobs. “The City employs these officers and they are paid overtime. It is called ‘hot-spot policing’ and as the name implies, they assign officers to areas that have seen a spike in crime. They are employees of the city when doing this and there are in uniform. Regarding this particular incident, the parking lot is public access and the public is allowed to use it.”

3. Williams noted his concern with this case that there was no record that the officer failed to follow correct Fourth Amendment procedures and thereby violated Mr. King’s rights. He said, “They were rookies, but I am troubled that someone can walk across a mall lot and be detained just for that reason.”

4. Bartels, “I agree with Mr. Williams, and I am also concerned about the other fact that was mentioned by the officer as a reason he was detained. They indicated that Mr. King had no keys in his possession. Short of x-ray vision, how would they know? If he didn’t have them in his hand, he could have had them in his pocket or somewhere else. I think that is a real stretch and a credibility issue. This was clearly a Level 2, Intermediate Terry stop or investigative detention. It looks to me that he was not free to go and a reasonable person would not have believed they were free to go. I am also concerned that they checked his ID. What was the reason for that? This is one of the things that the court looks at to decide whether it was a voluntary action.”

Following the discussion, the Chair entertained a motion.
It was moved by Williams to accept the staff recommendation to Sustain the allegation of False Imprisonment against Officers Eric Wheeler, Jonathan Davis and Ronald Stoddard. The motion was seconded by Bartels. The Chair called for discussion. Hearing none, the motion was approved.

F. RECOMMENDATION AND VOTE FOR DISCIPLINE

Before discussing discipline, Chair Morrissey asked Investigator Robertson to provide each officer disciplinary history.

Robertson reported that the offense is a Category ‘A’ disciplined by a written reprimand up to a three (3) day suspension. She also noted that the three officers have been employed with APD for approximately 13 months and may require additional training as it relates to the procedures governing search and seizure.

According to the records of the Atlanta Police Department’s Office of Professional Standards (OPS):

1. Officer Davis and Stoddard had one complaint each filed against them since their employment and both are still under investigations.
2. Officer Davis’ complaint, which was filed March 8, 2011, is for violation of Atlanta Police Department (APD) Work Rule 2.30, Recovered Property
3. Officer Stoddard’s complaint, which was filed March 23, 2011, is for violation of APD Work Rule 2.33, Conformance to Directives.
4. Officer Wheeler has none.

Williams motioned for each officer to receive a written reprimand and training regarding Terry Stops. Also, a policy adjustment is recommended regarding inexperience officers working alone in areas considered to be ‘hot spots.’ The motion was seconded by R. Johnson. The Chair called for questions and discussions.

Following a brief discussion that focused on the officers’ experience, unlawful Terry Stops, failure to comply with APD-SOP governing stops of suspicious persons, and no senior officer being present at ‘hot spot’ areas, the motion was approved.

REQUEST FOR SUBPOENA (Agenda Item VI):

Investigator Marc Addington appealed to the Board to exercise its subpoena power. The request is in regards to ACRB complaint #11-14 filed by George Nelson on March 22, 2011. The complaint alleges that Officer Leif Reddick with the Atlanta Police Department used abusive language towards Mr. Nelson during an incident that occurred on October 1, 2011. The purpose of the subpoena is to compel Mr. Adam Brock and Mr. Matt Brock to appear and submit to an interview at the ACRB office. Adam Brock and Matt Brock were both identified by Mr. Nelson as having witnessed this incident.

The Chair entertained a motion.

It was moved by Williams to grant the request for two subpoenas, one for Adam Brock and the other for Matt Brock. Bartels seconded the motion. Hearing no further discussion, the motion was approved.

DISCUSSION OF FALSE ARREST COMPLAINTS WHERE THE CRIMINAL CASE WAS ‘DEAD DOCKETED’ (Agenda Item VII):

At the April meeting, the Board started a discussion regarding hearing complaints that were resolved in criminal court with a disposition that requires some admission of culpability. At that meeting, Bartels pointed out he had never had a case, except one, during his career as a Criminal Defense Attorney and as a Public Defense Attorney,
when the case is 'dead docketed' in exchange for community service, where there actually involved any admission of culpability. This conversation was table for the current meeting to determine if the Board should again consider investigating these types of complaints.

**Beamud** provided some background regarding the policy the Board voted on last year. Last year the Board had policy discussions about whether or not to pursue claims that somebody was either falsely arrested where that person is convicted or takes a plea in a criminal case. The Board voted that where a person plead guilty or is convicted and complains of being falsely arrested, we will not invest those as claims of false arrest. If the complaint is about false arrest and abusive language, we will look into the abusive language claim. We understand some people, who have either pled or have been found guilty, are innocent but as a matter of using our resources, we decided it is not a productive endeavor because it may look like we are trying to overturn the work of the judiciary.

The case that has brought us back to this discussion involves a lady who was arrested in a domestic dispute. It was a violent situation and she eventually went into court and made a number of court appearance. At the end of the road, the case was dead docketed. This leaves this case in limbo for as long as they want. In this case, the woman agreed to perform 40 hours of community service. This is not a conviction, but she agreed to perform the community service and there may be some culpability. Mr. Bartels believes that this is not necessarily true and sometimes people just do this. Therefore, we are back at the same issue. It is very different from a conviction or a plea; however, it is still the underlying issue.

**Discussion...**

1. **Shields** stated, “Cases are dead docketed for any number of reasons. We could draw a distinction based on specific reason. I would be okay reviewing those cases that are just straight dead docket...not for community service or anything like that, but just straight dead docket cases. Because I would be inclined to think that those are the cases that the prosecution couldn’t proceed on for any number of reasons not because the defendant decided to do some anger management, domestic violence class, or community service just to get the charges dismissed.”

2. To clarify **Williams’** question regarding the meaning, **Bartels** stated, “A dead docket is simply when the case is set aside. The Prosecutor filed some type of notice that it is dead docket which means they are not going to prosecute but they can bring that case back up again and put it on a calendar and then actively prosecute it without having to go get a second indictment. I don’t agree with classifying dead docket cases as being in limbo. If we say it is in limbo because it could be charged again, then technically, any cases, where a jury has not been picked and sworn is in limbo, because that is where jeopardy is attached. In general, the only time you can’t prosecute somebody after previously prosecuting them is if a jury has been picked and sworn. My own thought... where we draw the line. Cases can be dead docket for any number of reasons, but usually, they are because it is a crappy case from the prosecution’s point of view. Just having that perspective, I would think that we should take on any dead-docketed case. If it is not logistically possible, then one option is to agree not because it is not logistically possible.”

3. **Shields**: “What about those cases where a person attends a course or performs community service in exchange for completing that and the case is dropped. Can’t we draw distinction in those cases?”

4. **C. Johnson** asked, “Aren’t most of these claims involving false arrest? **Beamud** answered yes. **C. Johnson** stated, “If you are pursuing a civil case under false arrest, I am assuming you would have to be under some status of finality, disposition or something; therefore, would you be able to pursue a case in civil litigation like false arrest against a police officer if the case is in dead docket status?”

5. With permission by the **Chair**, a member of the audience cited a Supreme Court case that points out that you are not allowed to use civil litigation if it will necessarily challenge the validity of a criminal conviction. He said, “The key is, if there is a criminal conviction, you cannot challenge that by filing a civil lawsuit. If there is no criminal conviction through a plea or whatever, you can always file civil lawsuit and it makes no difference if it is a dead docket or dismissal or no finding of guilty. Community service is not legally, any kind of punishment, it is a dismissal. Often that is done with bad cases as well.”
6. **Williams** said, "My concern is for those people who are really innocent but for whatever reason, took a plea deal to move things along to get back to their lives. We, as a Board, have got to show some concern for those individuals too."

7. **C. Johnson** asked, "Would a lot of cases, potentially, fall into that category?"

8. **Beamud** said, "I would say about twenty-five percent (25%), if not thirty, are false arrest cases. Of those, we tell people that if you have been convicted don’t file a complaint of false arrest. However, this is the first case with a dead docket and community service."

9. **C. Johnson** stated, "I’m wondering how unique this is but it seems to me that is something that should be potentially pursued by this Board."

10. **Bartels** stated, "It is pretty common. One distinction that we have is it a different quantum of evidence that is required.

11. **Beamud** indicated that usually, before a case is dead-docketed, there are about four or five court appearances where something is going on and this particular case is about a year and half old. When it is that old, it will probably not be sustained.

12. **Bartels** stated, "That is an important point, but what I have seen in Fulton County is the cases are usually resolved within a couple of months. The rule is if it is a noncomplex case, which the large majority of the cases are, it is resolved within nine (9) weeks."

13. **Chair Morrissey** stated, "I would suggest that we put an exploratory time limit on reviewing these types of cases to see how the work load would be affected."

Following the discussion, the **Chair** entertained a motion. It was moved by **Bartels** to have a six (6) months trial period to take dead docket cases. **Williams** seconded. The **Chair** called for more discussion. Hearing none, the motion was unanimously approved.

**INTAKE REPORT (Agenda Item VIII)**

A copy of the Intake Report was included in the Board packets. **Director Beamud** reported thirteen (13) complaints were received for the month of April, 2011. The complaints are:

- **#11-17 / Tommy Collins** alleging **Service Complaint**
  Staff recommends dismissal because the complaint is not within the Board’s jurisdiction.

- **#11-18 / David Davis** alleging **Service Complaint**
  Staff recommends dismissal because we have not received a signed complaint.

- **#11-19 / Sarah Denimore** alleging **False Arrest**
  Staff recommends that this matter be dismissed because it is beyond the 180 day time limitation and because she pled guilty in a false arrest allegation.

- **#11-20 / Jon Hegdio** alleging **Service Complaint**
  Staff recommends dismissal because not within ACRB jurisdiction.

- **#11-21 / Shequita Walker** alleging **Excessive Force**
  Staff recommends that we investigate this complaint as allegations of false arrest and excessive force.

- **#11-22 / Angelica Young** alleging **Abusive Language**
  Staff recommends dismissal because it is not the type of abusive language defined by the ordinance.

- **#11-23 / Jamie Smith** alleging **Unlawful Imprisonment**
Staff recommends dismissal to determine whether there was an unlawful detention which would be false imprisonment or false arrest.

#11-24 / Jamil Mitchell alleging Unlawful Imprisonment
Staff recommends investigation of unlawful imprisonment.

#11-25 / Aaron Lewis alleging Unlawful Imprisonment
Staff recommends investigation as an allegation of unlawful imprisonment.

#11-26 / Tron Hill alleging Excessive Force
Staff recommends dismissal. This matter is outside the ACRB jurisdiction.

#11-27 / Rodney Daniel alleging Excessive Force
Staff recommends investigation into the allegation of excessive force.

#11-28 / Audrey Vinson alleging Harassment
Staff recommends dismissal for lack of signed complaint.

#11-29 / William Hartness alleging Unlawful Imprisonment
Staff recommends investigation as an allegation of unlawful imprisonment

The Chair entertained a motion to accept the Director’s Intake report. It was moved by R. Johnson to accept the Director’s report. The motion was seconded by C. Johnson. The Chair called for a discussion. Hearing none, the motion was approved.

BUDGET UPDATE (Agenda Item IX):

The Chair directed members to Agenda Item IX. Beamud provided an update. A copy of the proposed operating budget was included in the Board’s packet.

Beamud The proposal includes a cut of 3% for everyone making over $80,000, in addition to the previous cuts.

Williams made the following comments, “On so many occasions such as the Katherine Johnston candle light vigil and the V-103 Radio event at the historical Pascal’s Restaurant, when questioned by the people and radio, Mayor Reed said he would definitely work with ACRB. Every major city with a Citizen Review Board, on the average, has a budget of 2.5 to 3 million dollars. Here in Atlanta, the person that has proclaimed many times that he was going to work with us, now wants to cut us. If we get cut too much, we will lose our Executive Director. The community needs to be enlightened about this.”

PUBLIC COMMENTS (Agenda item X):

Chair Morrissey opened the floor for public comments.

One person signed up to speak, Mr. John Michaels

Mr. Michaels expressed concern about the Board’s ongoing challenges with the Law Department and unequal legal representation. He said, “I don’t know where you are with this…the same attorneys that represent this Board also represent our police force, but we all know that is not going to work. Something has to be done. I hope you can issue a report and define what you are going to do and let the community know what is going on. Please be diligent especially, in cases of abuse.”
The **Chair** expressed appreciation to Mr. Michaels for his comments.

**SPECIAL BOARD COMMENTS REGARDING CORRESPONDENCE FROM APD:**

Referring to recent correspondence from Chief Turner, **Bartels** said, "I just want to throw out something for discussion and this goes back to something we talked about when the OPS will not sustain a complaint that we have sustained. We have before us, a letter from Turner dated May 4, 2011 regarding the complaints filed by Jeffery Cash and Bryant Mason. This is the incident where the individual was hit on the head by the officer with a flashlight and reviewed it at the last board meeting. For the record, I would like to read the third paragraph but bear in mind, when we talked about this case last month, there was no disagreement that the person was hit on the head with the flashlight and there was also no disagreement that this is against APD policy that a flashlight is not appropriate to use as a weapon."

Reading from Chief Turner’s letter, **Bartels** read, “Furthermore, an examination of the reasonableness or excessiveness of Officer Amarena’s striking Mr. Mason on the head with his flashlight should be examined based upon the reasonable officer standard, and must take into account that he had allegedly been struck in the mouth by Mr. Mason and that he may not have had time or the ability to drop the flashlight already in his reactionary hand, possibly obtain a city-issued weapon, and then defend himself. When calculating the reasonableness of a particular use of force, allowances must be made for the fact that police officers are often forced to make split second judgments in circumstances that are tense, uncertain, and rapidly evolving, about the amount of force that is necessary in a particular situation.” **Bartels** said, “I take particularly exception to that finding and I think it is very disturbing. To me, it seems this paragraph is saying that even though it is against policy to use a flashlight as a weapon, it’s okay if it is a tense situation and things are happening quickly. Well anytime a police officer is confronting somebody that’s going to be the situation…it’s going to be tense…things are happening quickly. I think that paragraph speaks volumes.”

**Aliniece** said, “That same ‘reactionary hand’ could shoot somebody.” **Bartels** agreed, “Basically, what the paragraph says is the SOP policies about excessive force, do not count.” **Williams** said, “Coming from a part of the community where search and seizure is an everyday thing and it makes no difference how people are treated. You can hit someone over the head with whatever is available. I hope we aren’t at that point yet, but for peace officers to conduct themselves in that matter, I find them to be at fault.”

**Shields** asked, “Thinking out loud…when we get responses like this, do we typically respond back to his letter? I know we previously meet with him about the delay in his responding, but we have never addressed him about the nature of his responses. The question is do we want to do that not just about this particular letter but all of them. I remember saying to the media, he disagrees with us when we sustain an allegation, but he agrees when it is unfounded or not sustained. We never address this head on and enough time has pasted where we can clearly see a pattern. This letter is a good example.”

The **Chair** asked **Director Beamud** if there was anything in the By-laws that go beyond our letter of recommendation. **Beamud** stated that it is based on the ordinance. The Ordinance says you get to adjudicate and make a recommendation to the Chief. The Chief gets to respond within thirty days. A meeting with the Chief might always be helpful. The **Chair** indicated that she really worried because, in this case, there is a clear violation of the SOP, so maybe a meeting is in order.

**C. Johnson** agreed with all of that regarding meetings and letter writing, but suggested trying to get as much media attention about this. Op-ed pieces with the AJC, coverage on local television and continue to hit it where it hurts. Get the public involved and let’s shed light on this. It is ironic that he only agrees with us when we say that the officers didn’t do anything wrong.

**Bartels** said that a policy was violated, yet the response from Chief Turner was well its okay to violate this because of a, b, c... All the other times, we have sustained a violation and OPS have not sustained it and if I recall
correctly, they reached a different conclusion in terms of whether a policy was violated. This particular case, we agree and OPS agree that a policy was violated, but they still did not sustain the complaint.”

R. Johnson indicated that the Board should have a strategy so that we are not just spinning our wheels. We have had a plenty of media coverage. Paul (Bartels) brings out a case that speaks volumes and Sharese (Shields) points out that Chief agrees with us when we don’t find fault with his officers but disagrees when we do. Great examples, but we need to be strategic in our thinking and decide the best way to present this.”

Beamud suggested the Board set-up an Outreach Committee Meeting to try and resolve some to this media stuff. Myola will organize the committee.

The Chair encouraged all the Board members to read the all of the letters from Chief Turner included in their packets.

ADJOURNMENT (Agenda item XI):

Chair Morrissey entertained a motion to adjourn. Williams motion to adjourn. Bartels seconded.
The meeting adjourned at 8:35 p.m.

Approved as to form and content,

Signature

June 9, 2011
Date