ATLANTA CITIZEN REVIEW BOARD
MINUTES OF THE LAST MEETING
55 Trinity Avenue, SW, Committee Room Two
Atlanta, Georgia 30303
November 10, 2011, 6:30 P.M

ROLL CALL

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

MEMBERS ABSENT
PAUL BARTELS (Bartels)

VACANT APPOINTMENTS
Office of the Mayor (vacant 4 months)

STAFF ATTENDEES
MARC ADDINGTON, Investigator (Addington); CRISTINA BEAMUD, Executive Director (Director/Beamud); 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 6:32 p.m. The Chair welcomed everyone including members of the Atlanta Police Department, Office of Professional Standards: Major Elder Dancy and staff. The Chair also stated that if anyone cared to participate in Public Comment at the end of the meeting, 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 (Agenda Item II):
The Chair entertained a motion to approve the minutes of the last meeting held October 13, 2011 at 6:30 p.m. Prior to the motion, Vice Chair Williams made two corrections on Page 8, paragraph ‘c’ and another correction
on page 9, paragraph ‘3-b.’ The Chair, by way of acclamation, called for a vote to accept the minutes with noted corrections. The minutes were approved with one Nay vote expressed by Williams.

REPORT OF THE COMMUNITY OUTREACH COMMITTEE

Community Outreach Committee Chair Williams reported the Committee has decided to postpone presenting to the Board until next month. He said, "There were some individuals who stated, early on, they wanted to be on the committee and if you are still committed, please come to the meeting. If you are no longer interested, please state it and we can move forward without you. Other members interested in joining the committee are welcome to attend the next meeting, Wednesday, November 16, 2011 at 1:00 p.m. in the ACRB office on the 9th floor."

REVIEW OF INVESTIGATION #11-65, COMPLAINT OF KENNETH COBB / INVESTIGATION BY MARC ADDINGTON

It should be noted that Chair Morrissey stated that questions asked of the investigators should be limited to the facts and not to making general comments or to prove a point.

Addington reported that the case involved an allegation of False Arrest, Case #11-65 filed by Kenneth Cobb against APD Officer Jason Brooks. The incident occurred on May 30, 2011.

A. INTERVIEW WITH KENNETH COBB
In an interview conducted with Mr. Cobb, he claims his brother Fred Cobb and his daughter Deidra, physically attacked him for no reason. He stated that Deidra Cobb called 911 at some point during the altercation. The police arrived and interviewed himself and Fred and Deidra. After the interviews, Officer Brooks placed the complainant in handcuffs and transported him to the City Jail.

B. INTERVIEW WITH FRED COBB
In an interview with Fred Cobb, brother of the complainant, he claims that it was the complainant, Kenneth Cobb that initiated the fight with both himself and his daughter Deidra. During the altercation, Fred Cobb claims that the complainant picked up a steel pipe and attempted to strike him with it at which point, his daughter called 911. At another time during the altercation, Fred alleged the complainant stated that "he was going to bust a cap in him." When the police arrived, they interviewed Fred Cobb and his daughter who provided their version of the events. Following their interview, the complainant, Kenneth Cobb, was arrested.

C. OFFICER INTERVIEW
An interview was conducted with Officer Jason Brooks. Officer Brooks indicated that he received a 911 call involving a domestic dispute.

Officer Brooks indicated he separated the parties and the interview with Fred and Deidra Cobb were similar in that they indicated the complainant Kenneth Cobb was the primary aggressor. Kenneth Cobb denied this and claimed that Fred was the one who started the fight. Officer Brooks claims that based on the statements of all of the parties, he made the decision to arrest Kenneth Cobb.

Officer Brooks indicated that he charged the complainant with a local ordinance ‘Disorderly Conduc’t in lieu of the state charge of ‘Family Violence’ because he realized that the complainant was the caretaker for his elderly mother. Officer Brooks felt that using the local ordinance would make it easier for the complainant to make bond and continue his role as his mother’s caretaker.

D. ACRB STAFF RECOMMENDATION REGARDING CASE #11-65
The interviews conducted by Officer Brooks during the initial investigation indicated that the complainant Kenneth Cobb was the primary aggressor in the physical altercation between himself and
Fred and Deidra Cobb. Georgia Law dictates that the primary aggressor in family violence incidents must be taken into custody. During this incident, Officer Brooks used his discretion in charging the complainant with the local ordinance because of the complainant’s role as his mother’s caretaker. No matter what charges were used to affect the arrest of the complainant, the end result was the same in that the primary aggressor was taken into custody and removed from the environment. Also, an officer is allowed to use his discretion in making charges in situations like this. Therefore, based on the aforementioned facts and information, the ACRB staff recommends a finding of Exonerated in the allegation of False Arrest against Officer Brooks.

To assist the Board with their decision, Beamud made a brief PowerPoint presentation in an attempt to summarize the elements of the events as stated in the ordinance, the SOP and relevant case law, where appropriate. She presented information regarding False Arrest as defined by the ordinance; jury instructions for False Arrest from federal cases and Probable Cause as defined Georgia Case Law.

E. VOTE BY THE BOARD TO ACCEPT STAFF RECOMMENDATION
Following the summary and recommendation, the Chair entertained a motion. It was moved by Morris to accept staff recommendation to Exonerate in the allegation of False Arrest against Officer Brooks. Hubbard seconded the motion. Hearing no discussion, the motion was approved by all.

REVIEW OF INVESTIGATION #11-41, COMPLAINT OF MICHAEL MORRISON / INVESTIGATION BY SHEENA ROBERTSON

Investigator Robertson provided an overview of ACRB’s investigation into complaint #11-41.

A. SUMMARY OF ALLEGATION
Investigator Robertson reported Mr. Michael Morrison filed a complaint with the ACRB alleging that he was verbally abused by APD Officer Charles Sendling during a traffic stop that occurred on July 2, 2011.

B. THE INVESTIGATION AND WHAT WAS REVEALED
Mr. Morrison stated that on July 2, 2011, at approximately 12:30 a.m., he was driving home when he was stopped by an APD Officer Charles Sendling who was operating a DUI marked patrol car. His wife and friend were also passengers in the vehicle.

According to Mr. Morrison, Officer Sendling approached his side of the vehicle and asked him if he had been drinking; he responded ‘No.’ He said the officer then asked him to produce his driver’s license and he complied. Mr. Morrison said the officer then went back to his patrol car, returned a short time later and told him that if he pleads guilty, he would indicate on the citation that he was driving at a lesser speed. Mr. Morrison said he told Officer Sendling that he was not going to plead guilty to anything and if he wanted to write him a ticket for a greater speed than he should do so. He said Officer Sendling began yelling and screaming profanities at him and he also noticed that the officer was sweating. He said at some point during that conversation, he asked Officer Sendling to make a notation on the citation that he was in a cluster of cars when he recorded him on the lidar (Light Detection and Ranging). He said Officer Sendling got angrier and said “Why do you f---ing (F-word) need this?” Mr. Morrison said he told Officer Sendling that he was going to use it as a defense against the lidar. Mr. Morrison said that only made the officer even angrier. The officer said to Morrison that the lidar is never wrong and never in 18 years of being a police officer has he seen a ticket like that dismissed. Mr. Morrison said he told the officer that he did not want to argue with him, he only wants him to accurately and truthfully record what he observed. He said Officer Sendling said to him that he was not going to put that information on the ticket and continued to yell that he was going to write him up for a higher speed. Morrison said at that point, he responded, “Okay, just give me the ticket.” He said Officer Sendling then walked back to his patrol car to write the citation; he remained in his vehicle.
According to Mr. Morrison, approximately three minutes later, Officer Sendling yelled to him to get out of his vehicle and walk towards the patrol car. Mr. Morrison said at this point, he became very frightened and told his wife to call their family attorney because he did not know what was going on but he complied and walked over to the patrol car. Mr. Morrison said Officer Sendling continued yelling and screaming at him about his previous request for a notation on the citation. Mr. Morrison said that the officer was sweating and yelling at him so he just agreed with everything the Officer said because he just wanted to get it over with. The profanity still continued with Officer Sendling repeatedly asking Morrison “Why do you F---ing (F-word) need this? I have been a F---ing (F-word) cop for over 18 years and you can’t F---ing (F-word) fight this.” Mr. Morrison said he told Officer Sendling to calm down and that this was not a situation to be angry about. He said, out of fear, he then just agreed with everything the officer was saying in an effort to defuse the situation. He said eventually, he was given the citation and afterwards he walked back to his vehicle and the officer drove off before he did. Mr. Morrison said the stop lasted approximately 15 to 20 minutes.

C. INVESTIGATIVE FINDINGS

➢ Traffic Citation
According to the traffic citation issued to Mr. Morrison as it relates to this incident, the citation indicates that Officer Sendling cited Mr. Morrison for speeding; driving 54 mph in a 35 mph zone. Furthermore, according to what is shown on the citation, it is indicated that the laser was calibrated at 49 mph in 35 mph zone, which is 14 mph above the posted speed limit.

➢ Court Records
According to the Atlanta Municipal Court records, on August 4, 2011, Mr. Morrison case was dismissed per Solicitor’s Pre-Trial Intervention – Traffic Program (PTIT). PTIT provides traffic offenders an alternative to prosecution and possible conviction. Participation is limited to once every 12 months.

During his interview, Mr. Morrison provided a copy of the receipt showing he paid a fee of $100.00 for entering into the PTIT program.

➢ Other Findings
Officer Sendling is assigned to the DUI Task Force within the Special Operations Section of the Community Services Division. According to APD, it is the policy of the DUI Task Force to document all traffic stops using City-issued video cameras installed in team vehicles. Therefore, based on this information, the ACRB requested a copy of the video footage from Officer Sendling’s patrol car as it relates to this incident. According to Sergeant Frank Schimmel, Supervisor of the DUI Task Force, he advised that Officer Sendling’s assigned vehicle was involved in a car incident on June 23, 2011 and as a result, the in-car video (ICV) system became inoperable and there is no video footage of the traffic stop. Sergeant Schimmel provided documentation of the accident, i.e., the accident report, the damage estimate report and the police report.

➢ Witness Interviews
During the course of the investigation, interviews were conducted with the passengers, his wife and friend, who were with Mr. Morrison on that day. Although, they could not provide specific details as to what was said, they both indicated that Officer Sendling used the ‘F’ word several times during their encounter.

➢ Officer Interviews
An interview was conducted with Officer Sendling concerning Mr. Morrison allegations. Officer Sendling denies the allegations and maintains that he was professional at all times during the stop.

➢ Officer Disciplinary History
The ACRB reviewed Officer Sendling’s disciplinary history. He has been employed by APD since July 2002 and there have been four (4) complaints filed against him. Three of the complaints
involved discourtesy allegations and he has been disciplined for using profanity towards citizens while on duty.

D. STAFF RECOMMENDATION REGARDING COMPLAINT #11-37

Robertson concluded and said based on the facts presented, there appears to be sufficient evidence to support Mr. Morrison’s allegations. Therefore the ACRB recommends that the allegation of abusive language brought forth by Michael Morrison against Officer Sendling be assigned a finding of “Sustained”

Beamud supplied the ordinance definition of abusive language. She stated, “The ordinance definition of abusive language means harsh, violent, profane or derogatory language which would demean the dignity of an individual and which shall also include profanity, racial, ethnic and sexiest slurs.” Beamud also indicated the corresponding SOP rule that applies in this situation. The first rule that applies is entitled “Courtesy” and another rule which might apply is ‘Appropriate Action.”

C. VOTE BY THE BOARD TO ACCEPT RECOMMENDATION

It was moved by C. Johnson and seconded by Morris to accept staff’s recommendation. Hearing no discussion, the motion was approved by all.

D. THE BOARD DECIDES DISCIPLINE

Investigator Robertson informed the Board that according to the APD grid, this discipline would normally be considered a category ‘A’ offense, but since the officer already had two (2) sustained category ‘A’ violations, this would be considered a category ‘B’ offense with a penalty range from a written reprimand up to a three (3) day suspension.

The Chair entertained a motion.

It was moved by R. Johnson and seconded by Morris to recommend a written reprimand with a proactive component to include re-training on Courtesy.

Discussion...

Price stated that she has a problem giving the officer just a written reprimand. “Did you say this officer has had three allegations of courtesy and etc.?” Robertson responded yes. Price indicated she felt the officer should receive a day of suspension.

Hearing no further discussion, Morrissey called for the vote. The motion was approved with one Nay vote from Price.

INTAKE REPORT FOR OCTOBER, 2011

A copy of the Intake Report was included in the Board packets. A total of twelve (12) complaints were received for the month of October, 2011. Staff recommended investigating seven (7) of the complaints and five (5) complaints were dismissed. The following is a list of those complaints and recommendations by the staff:

- #11-69 / Howard Eney alleging False Arrest
  Staff recommends investigation if and when the matter is adjudicated in favor of the complainant.
- #11-70 / Renee Bailey alleging False Imprisonment
  Staff recommends investigation as allegation of false imprisonment.
- #11-71 / Paul Parham alleging Poor Service
  Staff recommends dismissal because the matter is not within the ACRB’s jurisdiction.
- #11-72 / Aldenise Griffin alleging Failure to Promptly turn in Traffic Ticket
  Staff recommends dismissal because the matter is not within the ACRB’s jurisdiction.
• #11-73 / Whitaker Howell alleging Wrongful Termination from Employment
  Staff recommends dismissal because the matter is not within the ACRB’s jurisdiction.
• #11-74 / Abraham Malobe alleging False Imprisonment, Excessive Force
  Staff recommends investigation into the allegation of False Imprisonment and Excessive Force.
• #11-75 / Ahera Gebre alleg / False Arrest/Abusive Language
  Staff recommends investigation of False Arrest and Abusive Language.
• #11-76 / Monica Moody alleging Abusive Language
  Staff recommends investigation into allegation of Abusive Language.
• #11-77 / Michael Broadnax alleging False Arrest
  Staff recommends investigation as a complaint of False Arrest.
• #11-78 / Noah Killingsworth alleging False Arrest
  Staff recommends investigation if the criminal case is resolved in favor of the complainant.
• #11-79 / Ernest Beasley alleging Theft of Money
  Staff recommends dismissal because the allegation is not within the Board’s jurisdiction.
• #11-80 / Kevin Ennis alleging False Arrest
  Staff recommends dismissal because it is beyond the limitation period of 180 days.

The Chair entertained a motion to accept the Director’s Intake report and recommendations. It was moved by Morris 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.

DISMISSAL OF COMPLAINT #11-59 FOR LACK OF COOPERATION / INVESTIGATION BY MARC ADDINGTON

The Chair directed the board to Investigator Addington’s memo dated November 10, 2011 regarding Complaint #11-59.

Addington reported the complainant in this case is Ms. Akilah Williamson. Ms. Williamson filed a complaint with the ACRB on September 13, 2011 regarding an allegation of false imprisonment. Ms. Williamson had scheduled two appointments to interview with staff at the ACRB office and on both occasions she failed to appear. In addition, Ms. Williamson did not respond to several phone calls made by staff to compel cooperation. On September 22, 2011, a letter was sent to the mailing address provided to the ACRB and as of this date, she has not responded.

Due to Ms. Williamson’s lack of cooperation, the staff proposes a dismissal of the complaint filed by Ms. Williamson.

The Chair entertained a motion. It was moved by Alinece to dismiss the complaint filed by Ms. Williamson. The motion was seconded by Price. Hearing no discussion, the motion was approved.

PERSONNEL AND SEARCH COMMITTEE FOR NEW EXECUTIVE DIRECTOR POSITION

The Chair announced Cris Beamud resigned her position of Executive Director. Chair Morrissey expressed sadness and expressed appreciation to Director Beamud on behalf of the Board.

Morrissey said, “With that being said, a new Director is needed. We may need an Interim Director; however, we need to wait on that. There are things that need to be tended to. For one, we need to have a discussion with Human Resources. We have the earliest possible appointment with the Director and that won’t be until a little later in November. We also have more than one person interested in the job. So it is to our best interest that we wait just a little bit to look at the best possible candidates that are interested because that would be in the best light for the Board. We should not run or jump to any conclusions. We need to stay focused, intact and on-line.
and right on top of this job. I gave it a lot of thought to the Search Committee and the By-Laws give me the ability to appoint screening panels and committees as necessary to carry out the business of the Board. So I have appointed a Search Committee for a new Executive Director. I have selected:

 ✓ Alan Morris, to my left as the Chair of the Committee. Alan has many years of experience in Personnel and Managerial skills;
 ✓ Paul Bartels, I have also asked. He is not here tonight due to family illness. Paul is a very influential Civil Defense attorney in the community;
 ✓ Ryan Johnson on my right, has agreed to serve;
 ✓ Charis Johnson here was on the original Search Committee when we were looking for a Executive Director and she also serves on the Search Committee to select a new Ethics Director;
 ✓ Bill Harrison who has agreed to be on the Committee. Mr. Harrison has experience in mediation and he has a Law Degree and is very connected around town.

We appreciate all of these people agreeing to be on Executive Search Committee. Vice-Chair Williams asked, “Could you share with us the individuals who have expressed an interest in this particular position?” Chair Morrissey said, “No, I will not and I am sure everyone is interested.”

PUBLIC COMMENTS (Agenda item IX):

Chair Morrissey opened the floor for public comments. Three (3) people addressed the board.

➢ First Speaker: Senator Vincent Forte, 39th District
Senator Forte said, “When this Board was first created, I was fixture at the meetings and although I have not attended for a while, I have observed the Board business from afar...either through the media or a citizens making a complaint.” Mr. Forte expressed concerned that Beamud was leaving and thanked her for serving in the position. He said, “In three weeks, we will have the fifth anniversary of the killing of Kathryn Johnson. This Board was created out of that turmoil. Citizens hoped and believed that this board would be about the business of pursuing the truth. I hope that the Board is serious about being independent, and fair and an open Board. I am aware that there is discussion that the Police Force has asked to have a primary position in selecting a new Executive Director and I would urge you not to allow that to happen. I hope you are fair in this process and independent, because it is well known that the police cannot police themselves.”

➢ Second Speaker: Moki Macias, Member of BLOCS
Ms. Macias expressed her appreciation to Beamud. She said, “Her leadership and commitment has been strong and we appreciate your service on this Board. Also, BLOCS was involved in the Police Chief search. One of our proudest moment, as BLOCS, was being instrumental in getting a national search for the police chief...having the first ever Police Chief Selection Committee with representation from Community Groups and Citizens. I urge the Board to consider during something similar to that. I think Atlanta deserves a national search.”

✓ Third Speaker: Glo Ross, Member of BLOCS
“It is exciting that you have a Committee to start the search process; however, there are some things that we (BLOCS) know that can bring legitimacy, at least from the community’s perspective, to the Board and to the future leadership of the Board. As much as this Board is still growing and there is still much more work to be done in terms of holding the Police accountable, just knowing what the community sees as the responsibility of this Board and the hope for this Board, can be realized. As much as we are sad to see Cris go, we can really see this as a turning point.”
ADJOURNMENT

Chair Morrissey entertained a motion to adjourn. Morris moved to adjourn the meeting. The meeting adjourned at 7:35 p.m.

Transcribed by: Myola Smith

Approved as to form and content,

Signature

Date: 12/08/11