ATLANTA CITIZEN REVIEW BOARD
MINUTES OF THE LAST MEETING

OFFICIAL MINUTES
August 12, 2010 at 6:30 p.m.
55 TRINITY AVENUE, S.W., COMMITTEE ROOM TWO, ATLANTA, GEORGIA 30303

ROLL CALL

Members Present
RODERICK EDMOND (Edmond)
BARBARA HUBBARD (Hubbard)
JOY MORRISSEY (Chair/Morrissey)
OWEN MONTAGUE (Montague)
ALAN MORRIS (Morris)
SHARESE SHIELDS (Shields)
MACEO WILLIAMS (Williams)

Members Absent
CHARIS JOHNSON (Johnson)

Three Vacant Appointments to the Board
Atlanta Bar Association
Atlanta City Council President’s Office
NPU: M - R

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

Guest Attendees: Lt. Sharonne Steed, Office of Professional Standards, Atlanta Police Department

MEETING CALLED TO ORDER:

Chair Morrissey officiated the meeting calling it to order at 6:40 p.m. The Chair welcomed citizens and guests and asked Board members to introduce themselves and identify the entity that appointed them to the Board.

The Chair also noted for the record that the appointment of J.L. Booker by the City Council President’s Office was not renewed and that the Board now awaits a new appointee from the City Council President.

AGENDA

APPROVAL OF MINUTES OF THE LAST MEETING:
The Chair asked if there were any corrections to the minutes. There were no corrections noted. Montague moved to approve the Minutes for July 8, 2010. Williams seconded. The motion was approved.

**ACTION ITEMS:**

**DISCUSSION OF INVESTIGATION #09-36 and 09-38 COMPLAINTS**
(Robert Kelley and Ernest Buehl) EAGLE Bar

The Chair directed members to Agenda Item III, Director Beamud’s memo dated August 5, 2010 regarding the investigation of Complaint #09-36 and 09-38 and Investigator Addington’s memo dated August 12, 1010 regarding the same complaint.

A. SUMMARY OF COMPLAINT

*Investigator Addington* summarized the complaint filed by Robert Kelley involving members of APD’s Vice and Red Dog Units that occurred at the Atlanta Eagle Bar located on Ponce de Leon Avenue in the City of Atlanta. Mr. Kelley, bar owner, and Mr. Buehl, bar employee, allege that members of the Atlanta Police, used abusive language, homophobic and racial slurs while interacting with them.

Robert Kelley (#09-36) alleged that on September 10, 2009, he was arrested for various local ordinance violations by Atlanta Police Vice Squad and Red Dog Unit. He complained that officers used abusive language during the course of the detention and subsequent arrests of patrons and employees. When questions were raised as to why they were being detained, he stated that they were often treated disrespectfully by the officers, and told they “were fags and they had no rights.”

Ernest Buehl (#09-38) was working as a door-man on September 10, 2009. He alleges that members of the Atlanta Police Department engaged in inappropriate behavior by using abusive language. He complained that he observed a customer ask an unidentified officer why he was being detained and the officer responded using profanity and making threats to strike the customer with a bar stool. Mr. Buehl was charged along with Mr. Kelley and other employees of the bar with a permit violation and subsequently, transported to the City of Atlanta Detention Center.

*Addington* reported that he conducted recorded interviews with twenty-four police officers who were present during the raid. All of the officers denied using the reported language and all denied hearing any of the other officers use profane language as described by the complainants. Interviews were also conducted with several of the witnesses that were co-complainants in this case. They indicated that they heard several of Atlanta Police Officers engage in abusive language toward the patrons and employees. Several of the complainants and witness in the case were interviewed and asked if they could identify any of the officers by badge number or name, all of them stated that could not due to the lighting in the bar and they were forced on the ground and could not look up to see the officer’s face.
B. WHAT THE INVESTIGATION REVEALED

Addington reported that approximately two weeks ago, information developed indicating that Mr. Kelley might be able to identify the officers who used abusive language. Photographs of officers involved and filler photographs were obtained to form a set of photographic line-ups of the officers who were in the area of the bar where Mr. Kelley heard the abusive language. After viewing the photographs, Mr. Kelley indicated that he was able to identify two of the officers who used abusive language. Mr. Kelley identified the pictures by initialing the photographs he selected. *It should be noted that photo exhibits were presented to the board along with the investigation.* “Mr. Kelley selected Officer Brandon Jackson, a member of the Red Dog Unit, who was present at the Eagle Bar. However, the second officer selected by Mr. Kelley was a filler photograph and this officer was not present at the Eagle Bar. He was able to recall the use of specific profanity toward him and patrons; however, he did state that he did not hear Officer Jackson use any homophobic slurs or language.”

C. STAFF RECOMMENDATION

Regarding Complaint #09-36, the staff initially recommended the allegation of Abusive Language of Not Sustained; however, the recommendation was withdrawn. This action was taken due to the Mr. Kelley’s identification and the corroborating statements by other individuals who were present at the bar. Based on this information, the staff recommends the allegation of abusive language against Officer Brandon Jackson be ‘Sustained.’

Buehl #09-38 was contacted later in the investigation when the new information was developed concerning the possibility of being able to identify the officer by photograph. However, to avoid assigning blame to someone that was not there, Mr. Buehl stated that he was not comfortable viewing a photo-line-up because he was not sure as to the identity of the officers that were involved because of the lighting conditions and their position on the floor. Consequently, Mr. Buehl was not shown the photo-line up. Based on the information that was presented with Kelley’s case, we recommend a finding of Not Sustaining the complaint of abusive language because he was not able to identify any of the officers that were involved.

Discussion:

1. Edmond asked Addington to identify the officers who were initially picked from the line-up by Kelley. Addington identified on page two, first row, the second photo (Officer Jackson) and another officer on the same page, second row, third photo. Kelley identified each officer by initialing the photo. Officer Jackson was present at the raid; however, the second officer identified was a filler photo and not present at the incident. Edmond asked Addington what did Kelley allege was said by the second officer who was not in the bar. Addington stated, “The officer used a homophobic slur alluding that he was homosexual and did not have any rights. The first officer, according to Kelley, only used profanity and did not engage in the use of homosexual slurs.”

2. Williams stated that according to Addington’s report, Kelley asked several of the officers to provide their badge numbers and the officers refused to provide the badge number. Also, he read that the officers stated “raiding a fag bar is fun and we should do this every week.” Addington stated that the complainant did make this allegation; however,
several of the co-complainants in the cases stated that they did not hear that. "Some things they say they heard and some things they said they did not hear."

3. Edmond stated, "The discussion is clearly blending complaints 09-36 and 09-38. The whole notion that you have dozens of complainants who heard abusive language and officers saying we don't have to show badges and you have all of the police officers saying that did not happen. I personally believe the complainants. Second thing I am troubled by the prospect when somebody feels like they are being put up on and they do what they are supposed to do and they asked for identification and the police officer says I am not going to show you my identification. We don't know specifically who did what. Somebody has got to be held accountable and to that extent, I am strongly recommending that whoever the supervisors were of this operation need to have the harshest punishment that we can possibly recommend. To the extent that the individual perpetrators are hiding behind their abuse at the behest and a wink and a nod of their supervisor...somebody has to be held accountable. When it comes time to recommend action on this, my focus is going to be on the supervisor."

4. Chair Morrissey asked, "How do we find out who the supervisors are because this has been an ongoing chronic problem? Addington answered, "We were able to identify them. There were three ranking officers at the location that night. Sgt. K. Collier, Sgt. J. Brock with the Vice Unit and Sgt. Willie Adams III, Red Dogs. Sgt. Collier was added to this list because of his rank of Sergeant, but based on all the interviews of the policemen, Sgt. Brock and Lead Investigator Bennie Bridges were basically, in charge of the raid. They also lead and presented the briefing to the officers prior to the raid.

5. Edmond, "Who was actually in the facility?" Addington, "Sgt. Brock, Investigator Bridges, as a lead investigator, Sgt. Adams, Red Dog Unit and Sgt. Collier. Three with rank and one lead investigator.

6. Williams stated, "Let it be noted that at a recently held Town Hall Meeting regarding the confirmation of the Chief of Police, the City Council said if there was not any cooperation from the employees, they could go one step higher than a subpoena if necessary. The Chief said at the meeting that the department wanted to cooperate with us but I don’t see that happening here. Like Edmond, I believe the complainants instead of the officers."

7. Shields asked, "I understand that the allegations against a majority of the officers were not sustained because we don’t have a positive identification, but I am sensing from the Board that we all feel like this doesn’t pass the smell test...that something happened here. I am just wondering what we can do about it in terms of policy recommendations or in terms of SOP recommendations? This will not be the last time we are faced with allegations where we may not be able to positively identify officers from a Red Dog Unit where there are multiple officers and citizens involved. I don’t want to send a signal that an officer can get away with it, if a citizen cannot identify them. I would like to hear thoughts from the staff or board about this."

8. Edmond, "I am not in agreement with the finding of complaint (09-38) as Not Sustained, just because we don’t know who exactly did it. It is ridiculous to think that someone can actually identify someone when they are lying face down on the floor and officers are not giving them their identification. Something happened, so the allegations in my mind are
sustained and I disagree with the recommendation of the staff. I think we have the ability to find that the allegations were sustained irrespective of the fact that we were not able to identify specifically who did it. To the extent that we make recommendation, somebody has got to be held accountable for what I perceive as just an overwhelming sense of oppression and the entitlement to abuse people even though we can’t identify particular people. The one guy who was identified by Mr. Kelley who misidentified the other officer, I don’t think we should hold Mr. Kelley responsible because he has shown that he just doesn’t have that clear recollection. Personally, I want to focus on the supervisors and I strongly recommend that we find a sustainment of both allegations and to the extent that we make recommendations, that they be harsh and severe against those in a supervisory positions."

9. As a point of order, Chair Morrissey read for clarity, from the Policy and Procedures manual, "the standard of proof should be clear and convincing evidence. No findings with respect to an allegation of a complaint shall be sustained unless it is proven by clear and convincing evidence presented at the public hearing or otherwise contained in the investigated record.” She stated, "We may not be happy with this but our options are typical, we may vote to accept the recommendation of staff and assign the above findings and forward the findings and recommendations to the Chief of Police, Mayor and City Council. Our other option is that we may vote to send the matter back to staff for further investigation and we can also vote to conduct a hearing to consider the statements of the witnesses. I want to point out that in our Policy and Procedures Manual, Final Findings and Recommendations, Item 6, Supervision Failure: "The investigation established that the alleged acts occurred and were the result of inadequate training." I read that because I believe we are going in that direction. If you want to review what the other Final Findings and Recommendations are that we can provide the public, because that is who we are here to serve, we might be able to come to some sort of agreement as to how we can speak as a Board this evening"

10. Shields, "I am not in favor of finding the allegations sustained as to each and every officer present for the raid. I don’t think that meets the standard of clear and convincing evidence. However, I am open to more discussion about a recommendation that talks about the failure of supervision. Also, I want to know if the SOP talks about what an officer is supposed do when his badge number and name is requested. This can be addressed in our recommendation. We do have the ability to make some policy type recommendations, as well as, find the allegation sustained or not sustained and accept the staff recommendation in that regard.

11. Williams stated that he also did not agree with staff recommendation to not sustain. "Although certain officers were not able to be identified, the complaint from witness was the same.

12. Edmond: "While I appreciate our standards be clear and convincing, it is my opinion that it is clear and convincing that abuses took place. When you have multiple allegations by multiple people and everyone consistently saying the same thing. Then you have this ‘lock and step’ denial from the police. I don’t think it was by accident that no one was able to identify any of the officers because they were lying on the ground and no badge numbers were provided. What isn’t clear and convincing is specifically, who did it. It is clear and convincing that the behavior of the officers was accepted and not put in check by the supervisor. Again, my recommendation will be to find that the
allegation of abuse be sustained, and the recommended remedy should be one that is more systemic as oppose to focusing on individual officers who were there.

13. To answer Chair Morrissey question regarding the SOP procedure for giving out name and badge number, Beamud stated that she did not know the number of the policy but it does exist. "We don't know the individual names. The report recommended that we find that the abusive language occurred but we cannot identify who it is. In the general systems of complaints you have to find against an individual, but that should not limit the Board in what you want to do. The lack of supervision and the failure to identify themselves, we knew they were valid complaints and would violate SOP. The problem is that it is not within our ordinance jurisdiction. We can comment but it is not one of our authorities."

14. Edmond, "I disagree. If you go back to the ordinance, it says we have the ability to pick up issues that have already been brought to us by an individual and we can make recommendations. I think this falls under that umbrella. I don't see a conflict between the ordinance and what we are talking about doing."

15. "The way I see it, and this is the Board decision, we have two avenues of being able to explore issues; by complaint or by study," said Beamud. "If it is a complaint, it has to fall within the categories. This was a complaint, we investigated it as a complaint and Dr. Edmond is absolutely right, there is another avenue that we could use this as a study and that generally requires a vote of the Board. We handled this, from our prospective, as a complaint investigation and it had to fall within the ordinance requirements, but this Board, by vote, has broad authority."

16. Chair Morrissey asked, "A study like we did with Kathryn Johnston?" Beamud answered, "That is correct."

17. Edmond asked what is the best way to acknowledge that the abuse occurred and get to the point where we can make a recommendation as a group and board consistent with our Policy and Procedures and the Ordinance to make the recommendation that those in supervisory operation get severely punished?

18. Shields stated, "I think we need to get more information about the possible policy and supervision failures before we can make a fair recommendation on that. I appreciate the fact that the staff is focused on the complaint aspect, but I felt there is something more to this that we can do other than just find that these citizens civil rights were trampled on...something more than that. I would like to know what SOP's come into play with this raid. We know one...the failure to identify themselves and provide badge numbers but I am sure there are other violations if we look closely enough. We can use this as an opportunity to really look closely at what really goes on in that unit and identify any trends from prior complaints that may be evolving.

19. Beamud stated, "This Board has the discretion to ask for those things to be done. If I may suggest, we deal with these as we would a standard complaint and the Board sign the finding you feel is proper and perhaps I can incorporate some of the things that I have heard tonight into the letter to the Chief. We have a large number of cases that are ready for your review next month. At the conclusion of those cases, the Board can frame
the issues that it wants to study and in a precise way, I can address that in a similar manner that we did with the Kathryn Johnson case.”

20. **Shields** and **Edmond** agreed with the **Director**.

21. **Edmond** said, “Looking at the allegations that were made by Robert Kelley, his complaint was not against a specific officer, his allegation was that he was abused. The standard has been met to determine that specific allegation and in terms of the recommendation that follows, I believe that it is appropriate that we conform to policy and procedures and use this as an opportunity to get further information to do a study to figure out what the specific recommendations for correction should be in terms of discipline against any supervisor. To that end, as a potential motion, I am proposing to move that these two allegations be Sustained and that we put in abeyance recommendation to the Chief of Police pending a study of what policy and procedures were violated. This would be my motion on both cases—#09-36 and #09-38.

22. **Shields** asked, “One officer was identified. What do we do then about him? Based on that, the allegation would be sustained as to that officer only. Normally, what we would do, once we agree to accept the staff’s recommendation to sustain the allegation against that officer, we would then talk about what recommendation we want to make to the Chief.”

23. **Edmond** stated that personally, he, could not embrace that identification because the Complainant misidentified somebody else. “I believe there was abuse suffered by all the people there. I don’t believe that any officer can adequately be identified even though this one person was pointed out. Again what I am recommending is that we sustain, by a clear and convincing margin, that these people were abused. In terms of the recommendation, we basically, direct the staff to do a study, which is within our authority, and once we get that information, we make recommendation on these individual cases.”

24. **Montague** said, “In my gut, I believe what the complainants said and I do believe that the police officers colluded to support themselves, but it almost gets into a ‘he said-she said’ situation. However, I believe the people that brought the complaint, because they have no apparent motive to bring together to go against the police.”

25. **Morris** indicated that he would prefer to handle each case individually. “I would recommend that we take these two cases and sustain both as well as recommend action for the officers in charge in both cases. Once we finish all of our investigations and recommendations of the Eagle Bar complaints, then as a Board decide whether or not we want to go deeper, go further or do more.”

26. **Edmond** said, “Unless we actually know the details of the policy and procedures that were violated and to the extent at which they violated, by virtue of information, we will be shooting in the dark in terms of the severity in the recommendations of discipline in the supervisors. The point I want to make is we need to deal with the information that we have and the supervisors are responsible to the extent that no individuals can be identified. How severe the recommendations are against the supervisors, I don’t feel comfortable making a recommendation when I know I am short of information.”
27. Morris stated, "I have all the information that I need to make the recommendation for discipline of the officers at this point."

D. BOARD VOTE REGARDING STAFF RECOMMENDATION

At the conclusion of the discussion, regarding Complaint #09-36 / Robert Kelley, it was moved by Edmond to accept the staff recommendation to sustain the complaint of abusive language. Williams seconded. The motion was approved.

Regarding Complaint #09-38, Edmond moved for the allegations of abusive language, alleged by Ernest Buehl, be sustained. Williams seconded the motion. The motion was approved.

E. DISCIPLINE RECOMMENDATION

After the vote to Sustain was adopted, Chair Morrissey turned the discussion to recommending discipline.

Edmond moved for the Board to hold in abeyance our specific recommendations pending further investigations to be done by the staff regarding specific policy violations and any other matters that may have been done that were under the control of the supervisor of that operation. Williams second the motion.

Discussion...

1. Shields, "I withdraw a comment that I made earlier. "I am thinking the other allegations by the other complaint that we will be reviewing at our next board meeting, may also uncover allegations against this same officer who was identified by Mr. Kelly. It probably does makes sense to wait since this is one incident at one single location, we should probably wait and see if there is any other evidence that comes out against this particular officer."

2. Morris, "I would speak against the motion and suggest that we complete the process that we adopted as our procedure. Once we decide that the allegation is sustained, that we recommend some action. I think what we are putting in abeyance is a further study of this abuse toward this particular community. I am ready to recommend some form of discipline for the officers in charge of this team on that night."

3. Edmond, "I would like to reiterate that to this point, the way the staff has been looking at these is on an individual basis. From that we have been able to glean some kind of consistent patterns; however, we have not looked at this whole situation from a systemic perspective. I personally, would rather err on the side of being conservative in this matter to make sure we are looking at it with all the information that we need in order to get it right. I say this for the record."

4. Shields, "When there is an Internal Affairs/OPS investigation and there is an incident where there are various complaints, is the disciplinary action taken with respect to each individual's complaint or is disciplinary action taken with respect to all the allegations surrounding that one incident, and make a disciplinary action based on the totality of allegations. I think the answer is they would look at the one incident and if there are multiple complaints against that single officer, the disciplinary action will be based on
everything that is alleged against that one officer. Not as to each right violated or each person that is making a complaint. If that is true, I think it makes sense to look at the entire incident at the Eagle Bar. If there are multiple officers that can be identified and those multiple complainants say that the same officers did XYZ, we should make one single disciplinary recommendation...not a disciplinary recommendation for each complaint, since we are dealing with one incident. Therefore, I think that will be a reason to look at everything.”

In should be noted that guest attendees, Lt. Sharrone Steed confirmed Shields explanation of how OPS would handle disciplinary action with respect to multiple complaints against one officer surrounding one incident.

5. Shields, “Since Lt. Steed has confirmed this, personally, I think this means we should wait until we have reviewed all the allegations stemming out of the Eagle Bar investigation and if there are multiple allegations and complaints against a single officer, then our disciplinary recommendation should reflect all of those complaints. If we vote tonight to take action against the one officer that was identified, we may very well find ourselves making another disciplinary recommendation down the line.”

6. To answer Morris question as to how many Eagle Bar complaints have been handled to date, Beamud stated, “Two tonight and one previously. A total of three.”

7. Morris, “What did we do in the past?” Addington stated that the Board voted to sustain the case and recommended discipline against the officers involved.

Following the discussion, Chair Morrissey entertained the vote. The motion was approved with one no vote (Morris).

DISCUSSION OF INVESTIGATION #10-20 COMPLAINT OF ANTHONY SMITH

The Chair directed members to Agenda Item IV, Director Beamud’s memo dated August 10, 2010 regarding the investigation of Complaint #10-20.

A. SUMMARY OF COMPLAINT

Investigator Addington reported that Complainant Tony Smith complained that on October 7, 2009, he was arrested by Investigator Charles Brown for allegedly committing a strong armed robbery. At the time of the arrest, Mr. Smith was a 16 year old juvenile. He was arrested at Grady High School and held in an office, at the school in handcuffs, for an extended period of time (approximately 8 hours) causing injury to his wrist. Mr. Smith alleges that Investigator Brown purposefully tightened his handcuff and he produced photographs of his wrists showing bruises as the result of the handcuffs.

B. WHAT THE INVESTIGATION REVEALED

Addington reported “Complainant Smith states that on the morning of October 7th, he was in his first period class when Investigator Brown and Bennett took him into custody. He was
moved to the principal’s office where he was questioned regarding the incident. Later, he was moved to a file cabinet room adjacent to the Principal’s office. Investigator Bennett explained that Mr. Smith complained that his handcuffs were too tight and he loosened them. He said he never saw Investigator Brown purposely tighten the handcuffs. Investigator Brown indicated that Mr. Smith was held in the Assistant Principal’s office for four to five hours before being transported to Juvenile Intake. He further denied handcuffing Mr. Smith to a fixed object or file cabinet. He denied purposely tightening of Mr. Smith’s handcuffs.”

*Addington* continued saying, “Sauquavious Anderson was a co-defendant who was arrested with Tony Smith at approximately 8:45 AM. He stated that he observed Mr. Smith handcuffed to a filing cabinet near the Assistant Principal’s office. Although, he was put in a separate room, he was able to hear and speak with Mr. Smith. Mr. Anderson said that he heard Mr. Smith complained about the handcuffs being too tight and he saw Investigator Bennett loosen the cuffs.”

*Addington* also reported that at one point, Mr. Smith was handcuffed to a file cabinet and later handcuffed to a chair so that he could eat lunch. “He was detained until late afternoon when he and Mr. Anderson were eventually transported by prisoner transport van to Juvenile Intake at Fulton County. The Assistant principal, Mr. Roosevelt Foreman said that he was present during Smith’s detention. He said that he never witnessed Mr. Smith complaining to the officers about the handcuffs. He further said that Mr. Smith and Mr. Anderson were laughing and joking during the entire time.”

**C. STAFF RECOMMENDATION**

Based on information above provided by the Assistant Principal, the staff recommends that the Board find that the allegation of excessive force be [not sustained].

It is important to note that the Board does not have authority to investigate the following issues where it became clear that the Standard Operating Procedure (SOP) governing Juveniles was violated. The policy requires that juveniles be transported to the appropriate juvenile detention facility within a reasonable amount of time. It also requires officers to transport the juvenile prisoners and this was not done. Also, the SOP governing handcuffing only permits handcuffing to an immovable object when another suitable method of detention is available.

**Discussion...**

1. *Morris* asked *Addington*, “Did you ever discover why it took eight hours to transport the suspects to juvenile center?” *Addington* answered that the investigators never indicated why they deviated from SOP. “In the SOP it states that the arresting officer should transport the juvenile immediately or within a reasonable amount of time themselves. It does not say anything about using a Prison Transport Van. The investigators did indicate that they were busy and the van was delayed.”

2. *Edmond*, “The officer who was alleged to have put the handcuffs on too tight, in his statement, he said he didn’t do it, but we have a photo here of the kid being cuffed to a file cabinet and he didn’t cuff himself. Did we ever address the fact that this officer lied to us?”
3. **Addington** stated, "The officers indicated that they were not always in the room at the same time with the complainant. It is possible that the investigator did not see him cuffed to the file cabinet. Mr. Anderson (co-defendant) indicated that he only saw Mr. Smith handcuffed initially in the morning. There was never an occasion where everybody was in the room at the same time where they could say they absolutely saw him handcuffed to the file cabinet. It is plausible that Investigator Brown may have been in the room when he was handcuffed in a different position."

4. **Edmond**, "There were two officers there, Brown and Bennett. Which officer handcuffed the complainant to the file cabinet? **Addington** stated that Bennett indicated that he knew Mr. Smith was handcuffed to a file cabinet, but he didn't say he did it. Brown stated that he unequivocally did not see Smith cuffed to a file cabinet. **Edmond** asked if Bennett was asked if he handcuffed the complainant to a file cabinet. **Addington** said, "Yes, Bennett said he could not recall but he does remember seeing him handcuffed to a file."

5. Referring to the photos of Smith's wrist after the handcuffs were removed, **Edmond** pointed out that the second photo showed deeper indentations on the wrist of the Complainant (Smith). He asked **Addington**, "You agree that these indentations are a little more dramatic than the other photos and it's your appreciation that these indentation do not necessarily indicate that the cuffs were on too tight correct? **Addington** stated that he did not include the fact that the Complainant is about 5'11" and 200 lbs, a fairly big guy and I have seen those kinds indentations that people his size get from wearing cuffs. Referring to the interviews, **Edmond** asked **Addington**, "Did you asked Mr. Foreman (Assistant Principal), if he was with the Complainant and Mr. Anderson the entire time they were detained at the school?" **Addington** answered yes he did ask and no Mr. Anderson was not with them the entire time. **Edmond** then asked **Addington**, since a lot was weighed on Mr. Foreman's comments, was he asked how long he actually saw these young men detained. **Addington** stated that Mr. Foreman recalled they were removed by the prison transport van at approximately 3:30 p.m. **Edmond** stated, "We are putting a lot stock in this Assistant Principal's recollection that the Complainant was laughing and joking around the entire time and never complained of his handcuffs being too tight. I want to know out of those 8 hours, how much time did this Assistant Principal actually spend with these young men? **Addington** responded, "I can't say for certain, but there was definitely, periods of time when he was not with them. So he could not have been a witness as to what occurred a 100% of the time.

6. To answer several questions regarding additional witnesses, **Addington** stated that no other witnesses were present other than the ones interviewed.

**D. BOARD VOTE REGARDING STAFF RECOMMENDATION**

At the conclusion of the discussion, regarding Complaint #10-20 / Tony Smith, it was moved by **Morris** to accept the staff recommendation to **not sustain** the complaint of excessive force. **Edmond** seconded.

**Discussion...**

1. **Edmond**, "For the record, I am troubled by the inconsistencies in the officers' statement. I am sure both of the officers laid eyes on those kids and they knew the complainant was
cuffed to file cabinet and they know who put the cuffs on and saying they can't recall who did it. This is disingenuous causing me to question the credibility of the officers.

2. **Morrissey** stated that it should be noted that Complainant Tony Smith was being arrested for robbery.

3. **Beamud** indicated that the comments would be included in the letter to Chief Turner regarding tonight's vote.

4. To follow-up on Edmond's statement, Morris added that the letter to the Chief should be specific saying the officers could have exercised better judgment. "To me, it is clear that these officers spent a better part of an entire day (8 or more hours) dealing with a case that at best, probably could have been handled in 3 or 4 hours. They spent a long time taking care of this particular case and they did violate the SOP. They also erred in their decision to handcuff someone to a file cabinet and failed to transport the suspect to the juvenile center in their own car which is violation of SOP."

Following the discussion, **Chair Morrissey** entertained the vote. The motion was approved.

**INTAKE AND INVESTIGATION OF COMPLAINTS OF FALSE ARREST OR FALSE IMPRISONMENT WHERE THE PERSON HAS ENTERED A PLEA OR WHERE THERE HAS NOT BEEN A CRIMINAL ADJUDICATION**

Director Beamud, "This is complicated and the Board may want to spend some time reading this memo, think about it and perhaps, with the Board approval, this discussion can be put on next's month agenda."

Chair Morrissey agreed. Shields moved to amend tonight's agenda to remove Item V from the agenda and discuss at the next board meeting. Morris seconded the motion. The motion was approved.

**INTAKE REPORT**

A copy of the Intake Report was included in the handout distributed to the members. Director Beamud reported that the office received two (2) complaints for July:

A. **COMPLAINT #10-43**

The first complaint #10-43 is from Mr. Marlon Kautz alleging False Arrest. Beamud reported that the nature of his complaint is that Mr. Kautz had his camera confiscated unlawfully. "This allegation, I believe, does not fall within our jurisdiction. I am recommending that we not investigate this portion of the complainant. However, we may want to look into the excessive force that was used to take the camera. I am recommending a complaint investigation for excessive force."

B. **COMPLAINT #10-44**

The other complaint, #10-44 is from Karen Sullivan. The allegation is Procedural Misconduct. "Ms. Sullivan alleges that the officers, including a DeKalb County officer, should not have been
chasing a suspect in a construction zone. According to the complainant, the officers denied chasing the person and she believes the Atlanta Police Department is assisting the DeKalb Police to cover up misconduct. This is a recommendation that we not investigate, because it is:
- over 180 days and
- part of the allegation is not in our jurisdiction.”

Discussion...

1. **Edmond** asked, “If the complaint fell within the 180 days, would we have jurisdiction over it on an issue of basically excessive force creating a dangerous situation?”

2. **Beamud** stated, “In 1983 law, pursuit driving isn’t necessarily an excessive force issue. Previously, we did look at a pursuit case but it resulted in death.”

The **Chair** entertained a motion to accept the **Director**’s report. It was moved by **Shields** to accept the Director’s Intake Report. **Morris** was seconded. The motion was approved.

**REQUEST FOR SUBPOENA**

**Beamud** reported that Investigator **Addington** has been trying to interview witness Deke Cooper who is involved in an excessive force complaint. “It appears that Mr. Cooper is avoiding **Addington**. He has been informed by one of the witness to this complaint that Mr. Cooper is trying not to be interviewed. He is a business owner and he has some fears of retaliation. Therefore, the staff is requesting a subpoena.”

**Chair Morrissey** entertained a motion to accept the request. It was moved by **Morris** to accept the recommendation for a subpoena. The motion was seconded by **Williams**. The motion was approved.

**EXECUTIVE DIRECTOR’S REPORT**

**Director Beamud** reported the following:

A. **OPINION FROM GEORGIA STATE BAR**

**Beamud** provided an update on the letter she was asked to write to the State Bar regarding a potential conflict of interest with the Law Department. Ms. Betty Derek from the State Bar called and said they will have a board meeting in October or November, but they have not selected the Board yet so it still may not happen in October or November. The Board meets and evaluates whether they want to issue a formal opinion. If they decide to issue a formal opinion, they send the matter to staff. The staff will research and draft a position statement for the Board’s consideration. The Board considers the first draft and may send the case back to staff for work. The decision is finalized and sent for publication and public comment. After that, the Board reconsiders the opinion and finalizes its advisory opinion. The board meets every two months. This process can take at least one year. She also suggested that we call the lawyers ‘hotline’ and get advice from an attorney, but the advice is not-binding. I reiterated our formal request.

**Edmond** suggested that the Director send copies of the letter to the highest level of the State Bar. “I think we can expedite it.”
B. NOVEMBER 2010 MEETING

Beamud announced that the November Board Meeting is scheduled to take place November 11th. City Hall is closed for Veterans’ Day. We can move the meeting to November 4th or November 18th.

The Chair asked the members to check their calendars and make a decision by email.

C. VICE CHAIR SELECTION

Beamud reminded the Board that the Vice Chair position is vacant. Chair Morrissey asked members interested, to please contact her.

PUBLIC COMMENTS:

Chair Morrissey opened the floor for public comments.

- 1st Speaker John Michaels, City of Atlanta Employee
  Mr. Michaels expressed concern regarding police behavior at the Eagle Bar. He expressed support for the citizens that filed complaints.

- 2nd Speaker...Ernest Buehl, Eagle Bar Employee
  Mr. Buehl passionately expressed his concern regarding the raid at the Bar, “Everything you read in my deposition was correct. I was mistreated and somebody needs to do something about this. Until this behavior is corrected, no one in Atlanta is safe.”

- 3rd Speaker...Mr. Robert Kelley, Eagle Bar Owner
  Mr. Kelley took time to recap mistreatment he and his patrons experience the night of the raid and other situations they were forced to endure as a result of the incident. He said it is difficult to identify officers because of the confusion and being thrown to the floor face down. “Sixty patrons plus my employees yet no drugs found and being arrested for the tickets they give us that were less offensive than running a red light and yet they took the Eagle eight to jail and refused to give us medication when we got to jail and they also refuse to set-up bail. There was not bail for this because we never should have been arrested.”

ADJOURNMENT:

Following Public Comments, the Chair entertained a motion to adjourn. Edmond moved to adjourn and Williams seconded. The meeting adjourned at 8:50 p.m.