ATLANTA CITIZEN REVIEW BOARD
MINUTES OF THE LAST MEETING
APRIL 14, 2011, 6:30 P.M.
55 TRINITY AVENUE, S.W., COMMITTEE ROOM TWO, ATLANTA, GEORGIA 30303

ROLL CALL

MEMBERS PRESENT
PAMALA ALINIECE (Aliniece)
PAUL BARTELS (Bartels)
CHARIS JOHNSON (C. Johnson)
RYAN JOHNSON (R. Johnson)
ALAN MORRIS (Morris)
JOY MORRISSEY (Chair/Morrissey)
MACEO WILLIAMS (Williams)

MEMBERS ABSENT
BARBARA HUBBARD (Hubbard)
SHARESE SHIELDS (Shields)

Two Vacant Appointments to the Board
City Council President’s Office (vacant 12 months)
City of Atlanta Council Members (vacant 4 months)

STAFF ATTENDEES

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

MEETING CALLED TO ORDER:

The meeting was called to order at 6:35 p.m. The Chair welcomed guest, citizens and members of the Atlanta Police Department including Major Elder Dancy and Lieutenant Sharonne 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 March 10, 2011 at 6:30 p.m. It was moved by Bartels to accept the minutes of the last meeting. The motion was seconded by Morris. No discussion, the motion was approved.
CONSIDERATION OF INVESTIGATION 10-66 and 10-67, COMPLAINT OF BRYANT MASON AND JEFFERY CASH – EXCESSIVE FORCE
(Agenda Item III):

The Chair directed members to Agenda Item III, Director Beamud’s memo to the Board dated April 7, 2011 summarizing the investigation of Complaint #10-66 & 10-67. Investigator Sheena Robertson conducted the investigation and provided a summary of the complaint.

A. ALLEGATION SUMMARY

Robertson reported that both complaints were filed as a result of the same incident involving two brothers, 16 year old Jeffery Cash and 22 year old Bryant Mason.

They both alleged that on November 19, 2010, members of the now disbanded Red Dog Unit, engaged in unnecessary and excessive force when they physically assaulted them.

The police report pertaining to this incident identified Red Dog Team 1 as being on the scene. Red Dog Team 1 consists of Officers Luca Amarena, Christopher Dowd, William B. Walters and Anthony Colton.

B. WHAT THE INVESTIGATION REVEALED

Robertson stated that on the day of incident, Red Dog Team 1 was patrolling the area of 425 Chappell Road; purportedly, a location known for drug activity. They were in a marked patrol car and Officer Amarena was the driver. The Chappell Forest Apartment complex is on this street. According to the officers, before they drove into the apartment complex, Officers Dowd and Walters exited the vehicle so they could enter the complex from the rear in the event someone fled. Officers Amarena and Colton stayed in the vehicle and proceeded to drive into the main entrance when they observed Bryant Mason and Jeffery Cash, leaning on a parked vehicle. When Mr. Mason saw the vehicle moving towards them, he fled. Mr. Cash did not move. He remained at the parked vehicle. Officers Amarena and Walters exited their vehicle and ran after Mr. Mason. The officer eventually caught up to Mr. Mason in a wooded area where he was apprehended. Thirty-five (35) hits of crack cocaine, approximately 56 grams of marijuana and glassine bags were recovered from Mr. Mason’s jacket.

During the encounter, Officer Amarena struck Mr. Mason in the head with his flashlight. Mr. Mason was treated at Grady Hospital for a laceration to his forehead; two stitches were applied. Mr. Mason also complained of pain in his left hand; however, an x-ray revealed no evidence of injury. He was prescribed pain medication and discharged to the Fulton County Jail the next day.

Mr. Mason was charged with Possession of Cocaine and Marijuana with Intent to Distribute and two counts of Obstruction of a Law Enforcement Officer. Mr. Mason pleaded guilty to all of the aforementioned charges in a plea arraignment. He was sentenced to confinement for a period of five years; however, Mr. Mason only has to serve five of those months incarcerated and the remainder of the time may be served on probation.

C. COMPLAINTANT INTERVIEWS

Jeffery Cash indicated that moments later after his brother fled the scene and the officers went running behind him, he alleges that he heard his brother screaming and yelling that he was being beaten by the officers and he went to see what was happening. Mr. Cash said that when he approached the area where the officer had captured his brother, he observed one of them repeatedly striking his brother in the head and face with a flashlight. He further stated that two of the other officers noticed him and told him to move away. Mr. Cash said he left the area and attempted to call his mother on his cellular phone. He said while he was on the phone, the same officer approached him at gunpoint, snatched the phone out of his hand, and ordered him to the ground. Mr. Cash said that as he was getting on the ground, the officer forcibly took him down, placed a knee into his back and repeatedly struck him in the back of his head.
with his elbow. He was then handcuffed. Moments later, the other officer brought his brother (Bryant Mason) to the area where he was being detained and placed him face down on the ground. It was then that he noticed that his brother’s forehead was bleeding. Mr. Cash said he then witnessed one of the officers repeatedly kick his brother in his leg. He stated that he pleaded with the officers to allow his mother to come to the area, so she could see what was happening, but they refused his request and told him to shut up. He said the officers eventually took him to their patrol car and ran a computer check on him. When the check came back indicating he was okay, they released him. He said his brother remained on the ground until EMS arrived and transported him to Grady Hospital. Mr. Cash added that before his brother was taken away, he heard his brother yelling that he was being struck by an officer.

Bryant Mason, currently incarcerated at the Georgia Diagnostic & Classification State Prison, was interviewed. He stated that he and his brother, Jeffery Cash, were standing outside the Chappell Forest Apartments when he saw an unidentified vehicle coming towards them. Mr. Mason said that as the vehicle was approaching, he began to walk away from the area. As he was walking away, he noticed the vehicle stopped and the doors opened so he started to run. He said as he was running, he heard someone yelling, “we gonna catch your fat ass.” Mr. Mason claims that at the time, he did not know that the person chasing him were police officers. He said he had run into a dark secluded area of the complex when he heard someone yell, “Hit him with the Taser.” Mason said he stopped, turned around to face the officer and put both hands up. According to Mr. Mason, an unidentified Caucasian male officer approached him and struck him in the forehead with his flashlight. He said he fell to the ground and was unconscious for what appeared to be about 4 to 5 seconds. He said when he awoke; the same officer was leaning over him and saying, “I told you I was going to catch your fat ass.” Mr. Mason also said that he noticed that he had a lot of blood on his face, his lip was busted, his fingers were swollen and stinging, and he felt pain throughout his body. He said he then heard his brother, Jeffery Cash, yelling, “What are ya’ll doing to my brother?” He then heard one of the officer tell another one to go and retrieve his brother. They brought his brother to the area where he was being detained. Mr. Mason stated that his view was somewhat obstructed so, he could not see if the officers were doing anything to his brother.

During the interview with Jeffery Cash, he provided the name and contact information for two individuals he claims witnessed the incident...Jeffery Griffin and another person known to him only as Danielle.

Mr. Griffin was interviewed. He advised that on the day of the incident, he observed two unidentified Red Dog officers (one Caucasian and one African American) chasing Bryant Mason in the area surrounding the Chappell Forest Apartments. Mr. Griffin said, at some point, Mr. Mason stopped running and surrendered by putting both his hands up. Mr. Griffin said he then observed the Caucasian officer approach Mason and hit him in the head with a flashlight. At that time, he said two other unidentified officers approached the scene and also began to repeatedly strike Mason. Mr. Griffin said that while this was occurring, Mason’s brother, Jeffery Cash, came to see what was going on and the officers took him to the ground. Mr. Griffin said he did not see any of the officers strike Cash.

ACRB made several attempts to contact and interview witness Danielle but were unsuccessful. All of the officers, including the Sergeants, who arrived on the scene, were interviewed.

D. CASE NO. #10-66, JEFFERY CASH

Jeffery Cash alleges that an unidentified officer, whom ACRB later identified as Officer Christopher Dowd, approached him at gunpoint, forcibly removed his cellular phone from his hand, forced him to the ground and repeatedly elbowed him in the head without provocation.

According to Officer Dowd, shortly after they entered the complex; he observed Officers Amarena and Colton engaged in a foot pursuit of a male suspect; later identified as Bryant Mason. Officer Dowd said he then received a call via radio from Officer Colton advising that their patrol car was unsecured and needed him to secure it; which he did. Officer Dowd stated that he proceeded to drive into the direction
of where he witnessed the officer chasing Mason and observed Officers Amarena and Walters coming out of a wooded area with Mason in handcuffs. He said he was still seated in the patrol car when he observed Jeffery attempting to approach the officers and Mason. Officer Dowd said he exited the vehicle and positioned himself in front of Cash and ordered him to back away from the scene. Officer Dowd stated that Cash, whom he described as being very agitated, ignored his command and continued to push his way to where his brother was being detained. Officer Dowd stated that he again ordered Jeffery to move away from the scene but he still refused to comply. At that point, Officer Dowd said he grabbed Jeffery’s left arm with his right hand and using a ‘wrist lock technique,’ took Cash to the ground. Officer Dowd said he switched control of Cash’s left arm to his left hand so he could use his right hand to access his handcuffs. Officer Dowd reached for his handcuffs and in an effort to prevent Cash from escaping; he placed his right forearm across Cash’s shoulders blades and pushed down to keep him secured. Officer Dowd said that Cash calmed down and placed his other arm behind his back. He was then handcuffed and brought to his feet.

Officer Dowd emphatically stated that at no time during the encounter did he strike or elbow Jeffery in the head or snatch is cellular phone from his hand as alleged by Cash. He further stated that he never upholstered his firearm. This was also corroborated by statements of Officers Amarena, Walters and Colton. There were no other independent witnesses that could substantiate either account.

It should be noted that although Cash alleges that he was physically assaulted by Officer Dowd, he did not seek medical treatment nor did he complain to anyone else on the scene to include the supervising sergeant.

E. STAFF RECOMMENDATION REGARDING COMPLAINT #10-66

Based upon the evidence obtained during the course of the investigation, the ACRB staff recommends that Complaint #10-66 allegation of “Excessive Force,” as alleged by Jeffery Cash against Officer Christopher Dowd, be “Not Sustained.”

F. VOTE BY THE BOARD TO ACCEPT RECOMMENDATION

Before Robertson summarized Case #10-67, the Chair opened the floor for discussion regarding Jeffery Cash’s complaint #10-66.

Discussion...

1. Bartels asked if there was some discrepancy between different accounts about whether the patrol car was marked. “The two complainants described the car as an unidentified vehicle. Were you able to reach a conclusion about whether it was a marked car?” Robertson responded that the car was an unmarked vehicle. Bartels stated, “It seems to me that the only reason the officers had for pursuing them was that there were two people standing in a high drug area and when they saw individuals in an unmarked car who were presumably identified as police officers come towards them, they ran away. I could be wrong, but the last time I researched the issue, merely running away from a police officer when they approach is not reasonable suspension for a Terry frisk. If that is the case, I am wondering why we are not looking into the complaint for an unauthorized detention as well as excessive force.”

2. Beannud stated that there is a case that indicates when there is a combination of a ‘high crime area and flight’ there could be reasonable suspicion. I don’t remember the cite of the case.

3. Aliniece expressed concern regarding the bruises the complainant sustained. “Did he have to go to the hospital for the bruises? Robertson stated that Mr. Cash did not state that he sustained any bruises, he only complained of pain in his head. He said that he did not tell anyone until later after the incident was over including the Sergeant who spoke with him and asked him if he had any complaints. Also, Mr. Cash said he did not seek medical treatment.
Following the discussion, the Chair called for a motion.

It was moved by R. Johnson to accept the staff recommendation of “Not Sustained” regarding Complaint #10-67 allegation of “Excessive Force,” as alleged by Jeffery Cash against Officer Christopher Dowd. The motion was seconded by Bartels. The Chair called for more questions and discussions. Hearing none, the motion was approved.

G. INTERVIEWS REGARDING CASE NO. #10-67, BRYANT MASON

Officer Amarena stated that when Mason fled, he ran towards the back of the building along the fence until he came upon a hole in the fence and went through it. Officer Amarena said he too went through the hole in the fence and continued to run after him. At that time, Officer Amarena said it was dark and they were in a wooded area and he took out his flashlight. He turned it on so that he could see where he was going. As he was running, Officer Amarena said he observed Mason attempting to remove his jacket. He said he gave Mason several verbal commands to stop but he refused to comply. Officer Amarena said at some point, Mason removed his jacket, threw it, took a few steps, turned around, took a fighting stance and struck him in the face. Officer Amarena said at that time, he reacted by striking Mason in the face without realizing that he still had the flashlight in his hand. Officer Amarena said they both fell to the ground and he was tussling with Mason trying to get him into handcuffs. He said Officer Colton arrived on the scene and tried to assist with handcuffing Mason. Officer Walters arrived shortly thereafter and also began to help get Mason in handcuffs. Once he was handcuffed, Amarena said he noticed Mason was bleeding from the head so they took him to the patrol car. He said he then called for a supervisor to come to the scene. Mr. Mason’s jacket was recovered and illegal narcotics were found in it. EMS was subsequently called and Mason was transported to Grady Hospital.

Officer Amarena claims he only struck Mason one time and he did not observe any of the other officers’ strike or beat Mason during the encounter. This was also corroborated by the other officers on the scene.

According to Atlanta Police Department officials, officers are not authorized to use their City issued flashlights as an impact weapon, thus they are prohibited from using their flashlight to strike persons who resist arrest. This type of flashlight is made of machined aircraft aluminum and is 9.23 inches in length and weighs 14.0 ounces. An officer striking someone in the head with a flashlight is considered ‘a use of deadly force.’ In this case, even if Mason did strike Amarena in the mouth as alleged, the fact that Amarena struck him in the head with the hand holding the flashlight; whether inadvertently or not, constituted excessive force in violation of APD SOP 3010.

H. STAFF RECOMMENDATION REGARDING COMPLAINT #10-67

Therefore, given the aforementioned facts, the ACRB staff recommends that Complaint #10-67 allegation of “Excessive Force,” as alleged by Bryant Mason against Officer Luca Amarena be “Sustained.”

Relative to Officers William B. Walters, Christopher Dowd and Anthony Colton, the ACRB staff recommends that the allegation of “Excessive Force” as alleged by Bryant Mason be “Not Sustained” as testimony by the witnesses was inconsistent.

Robertson also reported that OPS recently concluded their investigation into this matter and the excessive force allegation against all four officers were not sustained. OPS concluded that the officer used force necessary to subdue two combative persons. The flashlight was not addressed in OPS’s conclusion.

I. BOARD VOTE REGARDING STAFF RECOMMENDATION

The Chair opened the floor for discussion.

Discussion and Questions...

1. R. Johnson asked, “At any point in time when the officers arrived on the scene did they indicate that they noticed Officer Amarena hitting the complainant with his flashlight?” Robertson said,
"With the exception of Dowd, all of the officers (Amarena and Colton) admitted that Amarena hit Mason with his flashlight. There is no dispute that he was hit with the flashlight."

R. Johnson, "Did anyone say that they tried to stop Amarena from striking Mr. Mason?"

2. Bartels asked, "The OPS investigation, just to be clear, even the one against Officer Amarena was not sustained by OPS?" Robertson, "That is correct and from reading the record, there was pretty much no mention in the conclusion as to why or anything about the flashlight." Bartels, "If there was no dispute and everyone is in agreement that Amarena did hit Mason in the head with the flashlight, the procedures are clear that was inappropriate, so do we know why it was not sustained against him...what was the rationale?" Robertson, "They indicated that Mason never sent them a statement and they had contacted the prison and allegedly sent him a form to fill out but he (Mason) never sent it back. Again, the flashlight was not even addressed in the conclusion although Officer Amarena admitted in his statement that he struck Mason with his flashlight."

3. The Chair stated, "In our handout, under the section of Officer Interviews, I thought it was interesting that Officer Anthony Colton said that at no time, during the encounter, did he strike or beat Mason. What I found interesting is he said, "However, Officer Amarena only struck Mason one time during the encounter." I find that very interesting because it only takes one strike at somebody head to give them a 1" inch laceration and two stitches.

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

It was moved by C. Johnson to accept staff recommends to "Sustained" allegation of "Excessive Force," against Officer Luca Amarena and to "Not Sustained" the Excessive Force allegation against Officers William B. Walters, Christopher Dowd and Anthony Colton as alleged by Bryant Mason. The motion was seconded by Williams. Call for discussion. No further discussion, the motion was approved.

1. RECOMMENDATION AND VOTE FOR DISCIPLINE

Before discussing discipline, Chair Morrissey asked Investigator Robertson to provide background information on Officer Luca Amarena.

1. Robertson reported on Officer Amarena disciplinary record. She said, "Since his employment with the Department beginning May 30, 2006, he has had nine (9) complaints filed against him. Of those complaints, two (2) resulted in a finding of Sustained; and one (1) is still pending investigation. The two that were sustained included one (1) failure to appear in court (received an oral reprimand) and the other was failure to intervene in a fight that was occurring while off-duty but still in a uniform. Not only did he not intervene, he did not notify a supervisor of the incident. For this, he received a written reprimand. Also, out of the nine complaints, he had four (4) that involved the use of excessive force: one (1) is still pending; two (2) are not sustained, and one (1) was unfounded."

2. Bartels asked about the discipline range. Robertson answered that it is a Category C according to the OPS Disciplinary Rules and the range is a four (4) to fifteen (15) day suspension.

3. Alinieve stated, "The OPS rules are clear regarding use of the flashlight and they need to abide by them."

4. Bartels, "Excessive Force can cover a lot of areas. Hitting someone with a flashlight is in a different league. It would be appropriate, if we look at recommending something in the upper range."

5. C. Johnson stated, "I think it is interesting and it sounds like this officer could have issues with regard to Anger Management. If you look at the photographs, they are pretty severe and do not look like a one-time hit. It looks really violent. In addition to any recommendation of suspension, I would like to include consideration for the officer to receive some training or therapy with regard to anger management. These photos are pretty violent and it appears they went way beyond what was necessary."

6. Bartels said, "I am a big believer in people getting help, but I think if they are not compelled to do it by some external leverage, I'm not sure how effective that will be. Getting help is something that someone has to decide for themselves. I would be in favor of recommending 15 days suspension."
7. C. Johnson said, “That’s in the beautiful world where we would hope that people would find that they need that help and that is why I feel they have to be compelled to get help. With that being said, I am also saying that I absolutely, do agree, any discipline recommended should be the strictest allowed under the SOP. I am for anything suspension of 10 day and higher even 14 days.”

8. The Chair asked if the recommendation, made by the Board, became a matter of record in the officer’s personnel file, or is that something we have to recommend for them to include. Beamud answered, “We can recommend that and we have done this once before in the past when Chief Pennington was here and he did agree to do it. There may be some due process issues if we sustain a case and the Chief, for example, agrees and the officer somehow is penalized for the behavior without a hearing. However, you are not entitled to due process until something happens where you lose a benefit such as a paycheck.”

9. The Chair stated, “The City is paying a lot of money to settle cases against the Police Department. The ordinance asked that we try to help reduce the amount of money needed to satisfy judgments and settlements based upon allegations against Police and Corrections. I think that we need to start putting this information in the personnel jacket of the officer. If an officer, for whatever reason, has six prior write-ups because of excessive force or whatever reason, these kinds of things, correct me if I am wrong, become part of the case. If they look at that then certainly they are going to look at the personnel jacket. If we can’t get some justice for these people in other venues, like what has happened so far, then certainly we can get something put in the personnel record so that when it comes to the court, they will know that we have done our job.”

10. C. Johnson asked, “If the officer is suspended and the Chief agrees with the board’s recommendation to suspend without pay, does he or she have the right to appeal?” Beamud answered, “Yes.” C. Johnson said, “In that case, they would have a hearing opportunity. The Department could use this to justify their decision for discipline...suspension without pay. I guess that would be the reasoning behind having some type of formal letter in the personnel file. I think we need to do it.”

11. R. Johnson said, “I agree with Charis (Johnson). What happened in this case is considered Use of Deadly Force and I think it wasn’t necessary or required for that many blows to the head to subdue the subject. I would like to know more about the four excessive force complaints against this officer.” Robertson stated, “One complaint was that Officer Amarena choked a complainant; another was the use of excessive force during a traffic stop; and the current complaint being considered tonight by the Board alleged by Bryant Mason and the fourth excessive force complaint is pending and cannot be discussed at this time.”

12. Bartels asked if there were any stats to support if this was an average number of complaints for an officer. Beamud stated that the question had been asked, “My sense is I see many officers who have no complaints and obviously, there are some officers who generate more complaints. When you do this type of comparison, it is best to do it by comparing similarly situated officers to similarly situated officers.”

The Chair entertained a motion for discipline. It was moved by C. Johnson to recommend that Officer Luca Amarena received a fifteen (15) day suspension without pay, a letter of discipline reprimanding his behavior and a referral for anger management training for the use of excessive force against Jeffery Mason. The motion was seconded by Bartels. No further discussion, the motion was approved.

CONSIDERATION OF INVESTIGATION #10-49 – COMPLAINT OF JAMES HEREFORD
(Agenda Item IV)

The Chair directed members to Agenda Item IV, Consideration of Investigation #10-49.

A. SUMMARY OF ALLEGATION

Investigator Addington provided an overview of complaint #10-49 filed with ACRB by James Hereford alleging False Arrest and False Imprisonment against Officer Grady Goggins, Atlanta Police Department, Zone 5.
Mr. Hereford filed a complaint on August 10, 2010 alleging that on August 5, 2010, he was at the Underground Parking Ramp and mistakenly got off at the wrong floor as he was using the elevator. He decided to use the stairs because he was in a hurry. He proceeded down the stairs and Officer Grady Goggins opened the door and was startled by Mr. Hereford’s presence. Officer Goggins asked what he was doing on the stairwell and Mr. Hereford explained that he had come to the food court for lunch and mistakenly got off the elevator on the 7th floor and was now trying to get back to work on time. The officer asked his name and where he worked and the complainant answered him. Mr. Hereford was wearing a uniform with his name on it. Apparently, Officer Goggins did not believe Mr. Hereford and Mr. Hereford claims that he was handcuffed and searched. Mr. Hereford says that Officer Goggins said that he was going to jail for trespassing and escorted him to Underground’s precinct. Officer Goggins took Mr. Hereford’s cell phone and called the last number on the phone call and verified what Mr. Hereford had told him. Mr. Hereford explained that he was distracted by a phone call when he got off the elevator at the wrong floor. After the officer verified the information provided, Mr. Hereford was allowed to leave and return to work.

B. WHAT THE INVESTIGATION REVEALED
Officer Goggins indicated that he stopped and questioned Mr. Hereford because he was on a self-initiated patrol of the parking ramp because there had been incidents of cars being broken into at the location and because he was surprised by his presence in the stairwell. He was not satisfied with Mr. Hereford’s explanation and he decided to move him to Zone 5 Mini Precinct which is about one fourth mile from the garage. While Mr. Hereford claims that he was handcuffed at the garage, Officer Goggins claimed that he did not recall at what point Hereford was cuffed. Officer Goggins said that he called the number on Hereford’s cell phone to verify his claims that he was on the phone when he mistakenly got off the elevator at the wrong floor. He was able to speak with Rachel Pierre and confirm, essentially what Mr. Hereford had said. Officer Goggins indicated that he was satisfied with Mr. Hereford’s explanation and un-handcuffed him and eventually released him from custody of the Mini Precinct. Officer Goggins said that his detention was justified by Section C of Atlanta City Ordinance 106-57.

Addington stated Officer Goggins interpretation of City Ordinance 106-57 is flawed. During his interview, Officer Goggins specifically stated that his detention of Mr. Hereford was in an effort to satisfy Section (c) of the ordinance that indicates an officer must take steps to investigate an individual in an effort to dispel any alarm or immediate concern that the officer may have as the person’s presence in a parking lot. In addition, Officer Goggins stated that he explained to Mr. Hereford before releasing him that he decided to detain him and investigate his presence in the deck rather than arresting him. This statement further amplifies the flaw in Officer Goggins reasoning for the detention and his understanding of the ordinance. There is no clear evidence that was presented by Officer Goggins that supports any violation occurred of Section (c).

C. STAFF RECOMMENDATION
The officer’s action was analyzed under Fourth Amendment law. According to Goggins, Mr. Hereford was arrested, not detained. He was handcuffed and moved and in custody for approximately 25 minutes. Once a person’s freedom of movement is restricted and he is moved to another location, the courts generally consider this an arrest. This requires probable cause instead of reasonable suspicion. For this reason, the staff recommends that the Board ‘Sustain’ findings of Unlawful Imprisonment and False Arrest against Officer Grady Goggins, Jr.'
D. VOTE BY THE BOARD REGARDING STAFF RECOMMENDATION

Following the conclusion of Addington’s summary, the Chair opened the floor for questions and a motion on the recommendation.

Discussion/questions...

1. Morris asked if Mr. Hereford had any identification on his person. Addington replied, “Not like a state issued ID. He had on a work shirt with 180 Peachtree Street printed on it, and he may have said his name.”

2. R. Johnson asked, “At any point in time did Mr. Hereford express that he felt he was being detained and held against his will.” Addington replied, “From the get go and besides he was handcuffed and that is usually done for security. He was not free to come and go.”

3. C. Johnson asked if the area where Mr. Hereford was detained was off limits to the public. Addington stated that it was a public stairwell.

4. Bartels said, “In all fairness to the officer, there is a lot of break-ins and there have been some muggings and the police, correctly, really feel that this is a priority.”

5. The Chair said, “I understand, but we as citizens, would like for them to do it in a lawful manner.”

It was moved by Morris to accept the staff recommendation to sustain the allegation of Unlawful Imprisonment and False Arrest against Officer Grady Goggins, Jr. The motion was seconded by R. Johnson. The Chair called for questions and discussions. Hearing none, the motion was approved.

E. RECOMMENDATION AND VOTE FOR DISCIPLINE

Before discussing discipline, Chair Morrissey asked Investigator Addington to provide background information on Officer Grady Goggins, Jr.

Discussion/Questions...

1. Addington reported on Officer Goggins disciplinary record. He said, “Officer Goggins has been employed with the Police Department since 1998. During his career, he has had five (5) complaints filed against him. In the past five years, he has had three (3). One (1) was sustained for failure to appear in court; one was exonerated and third case is still open. This is a Category B discipline, Abuse of Authority ranging from a written reprimand to three (3) day suspension.”

2. C. Johnson said, “On one hand, there is a push by the citizens to get aggressive about the break-ins and suspicious people. I think the officers get mixed signals from superior officers and then they also get the citizens complaining. Probably in his quest to try to balance all of this, he may have used this as an excuse. I agree there is a disconnect or misunderstanding of what an Investigative stop actually means.

Following the discussion, C. Johnson, moved that Officer Goggins receive a written reprimand and included in it should be a recommendation to provide training to the officer regarding Investigative Stops. Bartels seconded the motion. Hearing no further discussion, the motion was approved.

Once the board voted on discipline for Officer Goggins, the Chair read a statement that had been included with their investigation regarding this complaint. The statement suggested for the Board to consider and include in its recommendation to the Chief of Police that the Department also evaluate the training of Sgt. R.M. Green. Sgt. Green conducted an investigation into this complaint and evaluated the department’s policy on stop and frisk and the Atlanta City Ordinance 106-57. She recommended that the allegation by Mr. Hereford be not sustained. She concluded that the officers acted within his duties and took the appropriate action according to the department’s policy and procedures. This is not consistent with the ordinance and is not consistent with constitutional ruling governing the Fourth amendment.”

After reading the statement, Chair Morrissey expressed that the Board’s recommendations have not been accepted by the Chief and the Board is trying to reduce the money needed to satisfy judgments and would like to urge the Chief to consider the Board’s recommendations, especially about stop and frisk issues.
The member's agreed with the Chair. The floor was open for a motion.

It was moved by C.Johnson to recommend that Sgt. Green be trained on Fourth Amendment principles concerning the laws of both Stop and Fisk and Arrest. Bartels seconded. Hearing no further discussion, the motion was approved.

DISCUSSION REGARDING COMMUNITY OUTREACH (Agenda Item V):

A. BLOCS EVENT
The Chair directed attention to a flyer from BLOCS (Building Locally to Organize for Community Safety). BLOCS is having a free legal clinic Saturday, April 23, 2010 from noon to 5:00 p.m. Board members that can attend should send me an email regarding your availability to man the table.”

B. STRATEGY REGARDING COMMUNITY OUTREACH

Beamud also stated that the second part of the discussion regarding community outreach is how does the Board want to organize outreach and how do you want the staff to support your effort. Beamud said, “I would like for the Board to have a meaningful discussion on how you would like to see this organize. Unless you develop a strategy and have a goal, attending a lot of meetings, will not have much of an impact on our work. I urge you to either start a sub-committee and have a meeting or have the big discussion in whatever format you feel comfortable with and come up with a real plan that the staff can use to implement thoughts and ideas.”

Discussion...

1. Williams said, “Last year, we initiated a few things and I started listing things on an excel sheet. I realize the fact I need a person to put in the data because there is a lot of it. I have some of that information that I can leave with staff to input on a spreadsheet.” Williams also noted that he had information regarding the upcoming NACOLE conference for members to review. He said that if the Board approves, he would like to attend. The Chair indicated that would be OK for Williams to attend the conference.

2. R.Johnson asked if APD has a community liaison. Williams stated that the Department has hired a person, Ms. Alice Johnson. “I recently met her for lunch. We basically discussed how APD and ACRB can have a better working relationship and not be perceived as adversaries. We have agreed to meet again in the future to develop a plan.” R. Johnson said, “I have crossed paths with Ms. Johnson and she is the liaison, but I believe they also have a particular department that reaches out to the communities within each precinct. It may be helpful for us to decide how we want to interact with them and include this in our strategy.

3. The Chair asked for volunteers to serve on the Community Outreach Committee. “This committee will do the ground work and come up with ideas to present verbally and in writing to the Board.”

4. C.Johnson reminded the Board that a committee had already been established and instead of starting from scratch, it would be a good idea to build on the initiatives that may already be in place. Beamud indicated that she would check with Shields (absent from tonight’s meeting), to see if the Committee had established any initiatives when the committee was first formed. Beamud said, “Sharese (Shields) term expires in June and perhaps we need to be looking at members who will still be with us.” The Chair reiterated her call for volunteers for the Outreach Committee. Board members that volunteered are Pamala Aliniece, Maceo Williams and Ryan Johnson. For those members not present, the Chair asked the staff to put out an email in case anyone else was interested.

INTAKE REPORT (Agenda Item VI)

A copy of the Intake Report was included in the Board packets. Director Beamud reported six (6) complaints were received for the month of March, 2011. The complaints are:
#11-11 / Herman Jackson alleging Lack of Medical Care
Staff recommends dismissal because the complaint is not within the Board's jurisdiction.

#11-12 / Sandra White alleging False Arrest
Staff recommends dismissal because we have not received a signed complaint.

#11-13 / Jeremiah Ervin alleging Excessive Force
It is not clear that Atlanta Police Department was involved in the arrest and use of force. Mr. Ervin is incarcerated at the Fulton County Jail. Staff recommends an investigation to determine whether Atlanta Police Used Excessive Force.

#11-14 / George Nelson alleging Excessive Force
Staff recommends an investigation into the excessive force complaint, abusive language and false arrest.

#11-15 / Tom Lamar Hill alleging Excessive Force
Staff recommends dismissal because this is outside of the Board's jurisdiction.

#11-16 / Olajuwan Wilson alleging Excessive Force
Staff recommends an investigation into allegation of excessive force.

The Chair entertained a motion to accept the Director's Intake report. It was moved by Bartels 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 REQUEST FOR CASE 10-32 (Agenda Item VII):

The Chair directed members to Agenda Item VII, consideration to dismiss complaint #10-32.

A. SUMMARY OF INVESTIGATION
   Investigator Robertson summarized the complaint. She stated that on April 26, 2010, Ms. Watkins filed a timely complaint with ACRB alleging that on January 7, 2010, Atlanta Police Officer Larry Bennett falsely arrested and charged her with Criminal Trespass. According to the arrest citation, Ms. Watkins was charged with violation of O.C.G.A. Section 16-13-2(b).

   On May 14, 2010, the Board reviewed Ms. Watkins' complaint and determined that she allegations contained therein are within their jurisdiction and an investigation was initiated.

   On August 9, 2010, the Fulton County State Court was contacted to ascertain the status of Ms. Watkins criminal case as it relates to this matter. According to their records, Ms. Watkins' case was pending adjudication.

   On September 9, 2010, the Board re-evaluated Ms. Watkins complaint and voted to suspend its investigation until the adjudication of her criminal case.

   On March 11, 2011, Ms. Watkins criminal case was dead-docketed as a result of Ms. Watkins completion of 50 hours of community service. It is noted that the term “dead docket” is a procedural device by which the prosecution is postponed indefinitely (not dismissed) but may be reinstated anytime at the discretion of the court.

B. STAFF RECOMMENDATION
Investigator Robertson stated that given the facts presented, the ACRB staff recommends that the Board dismiss Ms. Watkins complaint because the matter was resolved in criminal court with a disposition that requires some admission of culpability. Thus, it does not meet the definition of false arrest which defines the authority of the Board.

C. BOARD VOTE REGARDING STAFF RECOMMENDATION

The Chair opened the floor for discussion.

Discussion and Questions...

1. Bartels asked, "I think maybe we can talk a little more about whether it involves some admission of culpability. This case was investigated well before I was appointed to the board, but my experience as a Criminal Defense Attorney, as a Public Defense Attorney for Fulton County and I still have a few cases for Fulton County, but when a case is dead-docketed in exchange for community service, I have never had a case, except one, where there actually involved any admission of culpability. If the Prosecutor does want to pursue it, the person has a clean record, and the defense does not feel like going to trial, it is just a simple way to resolve it." Beamud asked Bartels if he was suggesting that we should investigate. Bartels said, "If it is a policy that we investigate when there is no admission of culpability, then let's at least talk about it.

2. The Chair said, "I remember how painful it was the first time we talked about this issue and it is something I let the attorneys deal with because it is beyond my capability."

3. C. Johnson: "I can appreciate what you are saying. I think we could look respectively about how we want to treat them, but with age, it is difficult."

4. Bartels said, "My point is, I don't want anyone to lose the opportunity to file a report because on the advice of their attorney they opted for that kind of outcome."

5. The Chair, "It really boils down to where we want to put our resources. As far as the number of cases we are doing, we can't take any more than what we are doing in order to do a good job.

6. R. Johnson, "With that being said, would it be fair to take on a case-by-case instead of making it a flat policy?"

7. Bartels, "Another option could be that if a judgment is withheld or the case is not heard by this Board, pending adjudication, the person would have to re-file some sort of application of us." Beamud stated, "At that point, we would be beyond a 180 days and that would be out of the question because we don't have discretion regarding that. We could table this and discuss it next time and think about it to avoid having to go through all of this each time this subject comes up."

It should be noted that this discussion will be tabled for the next meeting.

FISCAL YEAR 2012 BUDGET PROPOSAL (Agenda item VIII):

Chair Morrissey directed attention to the proposed fiscal year 2012 budget prepared by Director Beamud. Beamud indicated that the total budget being proposed is $364,712.00. Beamud stated that the budget answers the questions raised at the last meeting regarding specific numbers on salaries. "We have had budget meetings with the Executive Office. The Mayor will be proposing a budget that will go to Council. City Council considers the proposal and will either make changes or adopts it. For the most part, Council usually adopts the Mayor's budget. The Mayor is proposing that we take an $18,000 cut from last year. I have put together my own proposal and that is the budget that you have before you. It can accommodate the salaries that I am recommending and
provide for all of the things that we currently still have. We will have another opportunity to go before City Council and I would like to tell them that the Board proposes and approves the budget as it appears here before you. The meeting before the City Council is in May. I will email the exact date.”

The Chair entertained a motion. It was moved by Bartels to recommend the proposed budget. The motion was seconded by Morris. Hearing no further discussion, the motion was approved unanimously.

PUBLIC COMMENTS (Agenda item IX):

Chair Morrissey opened the floor for public comments.

One person signed up to speak, Mr. Dan Grossman.

Mr. Grossman asked for permission to exceed the three minutes time limit to share with the board information regarding the Board’s policy mandate to try to help the City reduces liability payment. The Board agreed to listen.

Mr. Grossman addressed points relative to police not understanding the ordinance, constitutional law and the lack of training provided to police in these areas.

The Chair expressed appreciation to Mr. Grossman.

ADJOURNMENT (Agenda item X):

Chair Morrissey entertained a motion to adjourn. C. Johnson motion to adjourn. Morris seconded.

The meeting adjourned at 8:40 p.m.

Approved as to form and content.

Alan Morris
Board Secretary

Signature
Date: May 10, 2011