The March meeting was called to order at 6:37 p.m. by Vice Chair Pitre.

AGENDA

ROLL CALL  
(The ACRB has thirteen members)

ACTIVE MEMBERS PRESENT

SHUNTAY PITRE (Vice Chair Pitre)
BILL BOZARTH (Bozarth)
GLORIA HAWKINS-WYNN (Hawkins Wynn)
MICHAEL HOPKINS (Hopkins)
TRACEE MCDANIEL (McDaniel)
TAMARA ORANGE (Orange)
BARBARA WARD-GROVES (Ward-Groves)
SHERRY WILLIAMS (Williams) (Arrival 7:02p)

ACTIVE MEMBERS ABSENT

GINO BROGDON (Chair Brogdon)
CECILIA HOUSTON-TORRENCE (Secretary Torrence)

VACANT BOARD SEATS

Atlanta Bar Association (three (3) months)
Atlanta Business League (ten (10) months)
City Council President (1 year and ten (10) months)

ACRB STAFF & CITY EMPLOYEES ATTENDEES

SAMUEL LEE REID, Executive Director (Reid); MYOLA SMITH, Project Manager (Smith); SHEENA ROBERTSON, Investigation Manager (Investigator Robertson); BRIAN FLEMING, Investigator, Sr., (Investigator Fleming), Sr., KABRAL BRATHWAITE, Investigator, Sr., (Investigator Brathwaite); LYNN
APPROVAL OF MINUTES FOR MARCH 2018

McDaniel moved to approve the minutes. Orange seconded. Hearing no further discussion, the motion was unanimously approved by Pitre, Bozarth, McDaniel, Orange, Groves, Wynn, Hopkins.

POLLEDING OF THE AUDIENCE FOR CASE INFORMATION

The Vice Chair opened the floor for additional information from the public with regards to the cases on the agenda.

Special Note: Investigator Fleming informed the board that one of the cases that will be discussed tonight; the complainant is present and will speak before the board after the determination on his case. No new information was provided by the complainant.

Hearing no new information from the audience, the Vice Chair moved the agenda forward.

EXECUTIVE DIRECTOR'S REPORT

The Board received a comprehensive Executive Director Report in advance of the meeting. Reid highlighted the following information taken from the report:

- **Ransomware Incident Update**
  On Thursday, March 22, the City of Atlanta experienced a ransomware cyberattack that affected multiple applications and client devices. Regarding the impact on the ACRB operation, our complaint database is compromised and half of our computers are down, with the investigations unit down to one computer. The Executive Assistant and Board member computers also are down. We are sharing working stations, and we do not know if or when the computers may be recovered. Information is very limited. If you would like more information, please visit: https://www.atlantaga.gov/government/ransomware-cyberattack-information.

- **NACOLE Conference**
  Members of the board are requested to respond to the email sent on April 10, 2018 to express an interest in attending the 2018 NACOLE conference. A total of four (4) members will be able to attend the annual conference.

- **City Attorney Discussion**
  On March 26, 2018, staff and board members discussed options for handling the communication issues between the ACRB and the City Attorney’s office. The participants determined that the best course of action, at this time, would be for the board chair and the executive director to arrange a time to meet with the City Attorney’s office to resolve communication issues and concerns that had been raised.

- **Agency Survey**
  The ACRB survey of Atlanta zip codes 30309, 30310, 30311, 30312, 30313, 30314, 30315, 30318, 30331, 30354 has been closed out. The results are being analyzed.

- **Board Member Notice**
The ACRB has partnered with the Fulton City College and Career Academy to make 20-second recordings of board members introductions for the ACRB website. May 2, 2018 has been secured for the filming. The filming will take place at 4025 Flat Shoals Road in Union City (30291) beginning at 9:30 a.m. Members are encouraged to make note of this important calendar date and confirm attendance with staff.

- **2018 ACRB Art and Essay Contest**
  The 2018 ACRB Art and Essay Contest closed on March 30. Preliminary winners of the contest will be announced by April 13, 2018. The public will be able to vote on the website to select the final winners in each category. Website voting closes at midnight April 30.

Winners of the contest will be announced the first week in May. Recognition of the winners, families and schools will take place May 21, 2018.

**Comments regarding ACRB Art & Essay Contest:**

1. (Reid) The Art and Essay Contest closed on March 30th. Due to the number of entries, preliminary voting is underway to determine the list of finalists. Board members are encouraged to stop by the office to look at the artwork, read the essays and submit your votes for contest finalist. The reception and City Council presentation will be held on May 21st.

2. (McDaniel) As far as the filming (board videos) is it mandatory? Also, is there any other option as far as the filming time, other than 9:30 a.m.?

3. (Smith) The filming starts at 9:30 a.m., but, it goes throughout the day...so from 9:30 a.m. on until the last person scheduled anytime that day.

4. (Reid) Yes, it is mandatory. We will try to accommodate your schedule, but these are students who are doing this for us during their class time. We are working with their schedule as well.

5. (McDaniel) Will you please reconfirm the NACOLE Conference dates please?

6. (Reid) Yes. September 30th – October 3rd. The conference information is inside your package.

7. (Hawkins-Wynn) For clarity, it is my understanding, if you have not responded to that email...today or yesterday, you already got the four names for the conference? I have yet to respond. I think that I talked to Myola (Smith) yesterday. I was a little confused but...I intended to respond.

8. (Reid) So you want me to put your name down?

9. (Hawkins-Wynn) Yes.

10. (Reid) I have Michael (Hopkins), Barbara (Ward-Groves), Tracee (McDaniel), Gloria (Hawkins-Wynn), Tamara (Orange) and Cecilia (Houston-Torrence).

11. (Hopkins) If they can only take four, I will be willing to withdraw.

12. (Ward-Groves) And as one of the newest members, I will withdrawal my name for consideration.

13. (Hawkins-Wynn) Is this an annual event?

14. (Reid) It is. Thank you for letting me know your interest and we will talk about it.

Detailed information regarding Community Outreach events, Mayor meeting request, board training and case information was included in the ED written report.

**INTAKE REPORT FOR MARCH**

Investigation Manager *Robertson* reported that for the month of March 2018, the ACRB received twelve (12) complaints.

**A. COMPLAINT BREAKDOWN AND STAFF RECOMMENDATIONS**

The ACRB staff is seeking approval to possibly dismiss five (5) of the twelve (12) complaints. Five (5) complaints are recommended for investigation and two (2) complaints are awaiting signatures. It should be noted that the proper referrals were given to those citizens whose complaints fell outside of ACRB’s jurisdiction.
The following is a list of the complaints that are being recommended for dismissal and the reason for the recommendation:

1. **ACRB Case No. 18-025 – Failure to Investigate**  
The Complainant alleged that on March 5, 2018, he and his wife were involved in a hit and run vehicle accident and the two APD officers that were nearby failed to stop and assist them.  
**The Complainant was unable to provide any identifying information related to the subject officers. Therefore, recommend dismissal for lack of information.**

2. **ACRB Case No. 18-026 – Incorrect Form**  
The Complainant alleged that on March 6, 2018, an APD officer mistakenly used an outdated Impoundment Form resulting in him having to pay a higher fee to get his vehicle out of impound. **This does not rise to the level of misconduct. Therefore, recommend dismissal for lack of merit.**

3. **ACRB Case No. 18-030 – Not Responsive**  
The Complainant alleged that the APD has failed to respond to his open records request.  
**Recommend dismissal for lack of jurisdiction.**

4. **ACRB Case No. 18-032 – False Testimony**  
The Complainant alleges that in 2017 (he was unable to provide an exact date, but stated that it was over 180 days from the date of the filing), APD officers provided false testimony in a disposition. **Recommend dismissal because the incident occurred outside of the 180 days and is time barred.**

5. **ACRB Case No. 18-033 – Excessive Force & False Arrest**  
The Complainants alleged that on March 16, 2018, an APD officer tased and falsely arrested one of the complainants.  
**Recommend dismissal because allegations fall outside ACRB’s purview.**

**Awaiting Signed Complaints:**

1. **ACRB Case No. 18-027 – Abuse of Authority**  
The Complainant is alleging that on January 29, 2018, her son was in a car accident and the responding APD officer abused his authority when he refused to allow the tow company affiliated with their insurance to tow the vehicle which resulted in them to pay a higher fee to get the vehicle out of impound. **Awaiting the Complainant’s signed complaint. If the signed complaint is received within the next few weeks and the complaint has merit, then recommend investigation as an Appropriate Action Required complaint. If not, then recommend dismissal.**

2. **ACRB Case No. 18-028 – Illegal Entry & Search**  
The Complainant alleged that on March 13, 2018, APD officers illegally entered and searched his residence. **Awaiting the Complainant’s signed complaint. If complaint is received within the next few weeks and has merit, then recommend investigation as an Appropriate Action Required complaint. If not, then recommend dismissal.**

**Investigation recommendations:**

1. **ACRB Case No. 18-023 – Unlawful Detainment & Illegal Entry & Search**  
The Complainants alleged that on February 28, 2018, one of the complainant was unlawfully detained by Atlanta police officers. They also alleged that the officers illegally entered and searched their residence and vehicle.  
**Recommend investigation as a False Imprisonment and Appropriate Action Required complaint.**
2. **ACRB Case No. 18-024 – Unlawful Detainment, Harassment, Failure to Provide Badge Information & Threaten Arrest**
   The Complainant alleged that on March 2, 2018, he was harassed and unlawfully detained by an APD officer. He also alleged that the officer threatened to arrest him. He further alleged that the lieutenant refused to provide their badge numbers. **Recommend investigation as a False Imprisonment and Appropriate Action Required complaint.**

3. **ACRB Case No. 18-029 – Failure to Complete Report, Threatened to Arrest & Inadequate Traffic Report**
   The Complainant alleged that on March 16, 2018, she was physically assaulted and the responding APD officer refused to complete a report and threatened to arrest her. She further alleged that in February 2018, the same officer completed an inadequate accident report. **Recommend investigation as an Appropriate Action Required complaint.**

4. **ACRB 18-031 – False Arrest**
   The Complainant alleged that on March 19, 2018, his vehicle was damaged and the responding APD officer refused to do any incident report. He further alleged that the officer refused his request to call a supervisor, provide his supervisor’s name and provide his (the officer) name and badge number. **Recommend investigation as an Appropriate Action Required complaint.**

5. **ACRB 18-034**
   The Complainant alleged that on March 19, 2018, officers illegally entered and searched his residence. He also alleged that the officers engaged in excessive force when they slammed him against a wall, pointed a gun in his face, ordered him to ground and placed a kneed onto his back. He further alleged that he was falsely arrested. **Recommend investigation as an Appropriate Action Required and False Imprisonment complaint.**

**Reconsideration of Complaint:**

**ACRB 17-155 – Rude Behavior**
The Complainant filed a complaint with the ACRB in December 2017 alleging that on November 26, 2017, while at the South Terminal of the Hartsfield-Jackson International Airport, an APD officer spoke to her in a rude and nasty manner.

Surveillance footages were obtained from the Airport’s Aviation Department; however, due to the heavy traffic, is difficult to determine which vehicle the Complainant was occupying. The ACRB has made numerous attempts to reach the Complainant in order to obtain additional information, such as the make and model of her vehicle, without success. Therefore, due to the lack of details in the complaint coupled with the unavailability of the Complainant, the ACRB is unable to move forward with the investigation. **Therefore, it is recommended that the Complainant’s complaint be dismissed for lack of information.**

**B. BOARD VOTES ON INTAKE REPORT**

*Bozarth* moved to accept the Intake Report for March 2018. *McDaniel* seconded. Hearing no further discussion, the motion was unanimously approved by *Pitre, Bozarth, McDaniel, Orange, Groves, Wynn.*

**OLD BUSINESS**

None
COMPLAINTS REVIEW:

ACRB CASE NO 16-155

A. ALLEGATION SUMMARY

The Complainants alleged that on July 10, 2016, Atlanta Police Officers Jonathan Clayton and Demetres Jones: 1) racially profiled him; 2) unlawfully detained and searched him; 3) falsely arrested him and; 4) improperly disposed of some of his belongings.

The Complainant further alleged that Officers Clayton and Jones acted inappropriately when: 1) they aggressively placed their hands on their guns, and 2) Officers Clayton told him he “he has been watching too much YouTube” and was “very rude” during the incident.

B. STAFF RECOMMENDATION

I. False Imprisonment Allegation:

Both parties present conflicting account of the incident and there are no independent witnesses or documentary evidence that could support either version. Therefore, the ACRB staff recommends that the allegation of False Imprisonment against Officers Clayton and Jones be assigned a finding of Not Sustained (the investigation established that there is insufficient evidence that the officer committed the alleged act of misconduct).

II. Discrimination Allegation:

Both parties present conflicting account of the incident and there are no independent witnesses or documentary evidence that could support either account. Therefore, the ACRB staff recommends that the allegation of Discrimination against Officers Clayton and Jones be assigned a finding of Not Sustained (the investigation failed to prove or disprove the alleged act of misconduct).

III. Appropriate Action Required Allegation:

Issue #1: Did Officers Clayton and Jones have probable cause to arrest the Complainant?

The evidence shows that the Complainant’s arrest was pursuant to him having an active warrant out of Gwinnett County and not for the alleged traffic infractions. Therefore, the ACRB staff recommends that the allegation of Appropriate Action Required, as it relates to the false arrest claim, against Officers Clayton and Jones be assigned a finding of Exonerated (the investigation established that the alleged acts occurred but were justified, legal or properly within Department policy).

Issue #2: Did Officers Clayton and Jones have probable cause to search the Complainant?

The ACRB staff recommends that the allegation of Appropriate Action Required, as it relates to this issue, against Officers Clayton and Jones be assigned a finding of Exonerated (the investigation established that the alleged acts occurred but were justified, legal or properly within Department policy).

Issue #3: Did the officers improperly dispose of the Complainant’s belongings?
The ACRB staff recommends that the allegation of **Appropriate Action Required**, as it relates to this issue, against Officers Clayton and Jones be assigned a finding of **Not Sustained** (the investigation failed to prove or disprove the alleged act(s) occurred).

IV. **Conduct Allegation:**

The ACRB staff recommends that the allegation of **Conduct** against Officers Clayton and Jones be assigned a finding of **Not Sustained** (the investigation failed to prove or disprove the alleged act(s) occurred).

**Discussion and Comments:**

1. **(Bozarth)** Brian, do you know why the Complainant did not want to talk to us?
2. **(Fleming)** No, I do not. He did not comply. This case originally belonged to ACRB former Investigator Lolar. She tried to contact him, I tried contacting him. He did not get back to us.
3. **(Bozarth)** If we knew that they weren’t going to be available to talk to, we wouldn’t have brought it forward. So, there must have been some cooperation as some stage. Am I correct?
4. **(Robertson)** No, we had enough information to move forward...we would just move forward without getting in touch with the complainant. For instance, the case that I just asked for dismissal, if there was enough information, we would have moved forward and investigate without the complainant’s formal statement.
5. **(Ward-Groves)** Was there any reason given for the resignation of Mr. Clayton?
6. **(Fleming)** No. When it comes to his resignation, the only thing that it said was “other employment.” I guess that is self-explanatory...another job.
7. **(Hawkins-Wynn)** The charges were subsequently dismissed. Is that correct?
8. **(Fleming)** Yes. It was nol pros. I contacted Fulton County to see why specifically, but they have not gotten back with me. The Complainant was in traffic. According to the officer, he was going east bound in the west bound lane. We couldn’t talk to the complainant to find out exactly which way he was going. It was a traffic stop. He was on his bike.
9. **(Hawkins-Wynn)** On page 6, it said that he got a call about a suspicious person and that is what led to...I’m just trying to tie in the suspicious person to the stop.
10. **(Fleming)** That is what the call was actually categorize as...the officer did that...suspicious person. I can’t tell you why they categorize it as a suspicious person stop but it was from talking to Officer Jones... I’m sorry that’s not correct. I believe was the dispatcher who categorize it that way. Once they called it in and say that we are going to do this stop on this person, they refer to the stop as a suspicious person. That’s the way I understand it.
11. **(Robertson)** Dispatch assigns whatever code it is based on the information the officer provides.
12. **(Hawkins-Wynn)** Initially, what I thought was a suspicious person call. A couple of other questions. The code sections that are cited, the case was ultimately dismissed...Is that correct?
13. **(Fleming)** Yes...Nol pros.
14. **(Hawkins-Wynn)** Nol pros. But the code sections that were cited were 40-6-40, 40-6-48, 40-8-20. Now, I may fail to read and understand those sections, but he was on a bicycle. My understanding is that those codes refer to a vehicle. Is it the same category?
15. **(Fleming)** I believe they refer to a bicycle. I can go back and look at it. I looked at those codes...those are what they gave him...traffic codes.
16. **(Bozarth)** Is that right Lt. Bennett? A bicycle for the purpose of traffic endorsement...is this considered a vehicle?
17. **(Lt. Bennett)** I haven’t written a traffic ticket since 1992. Yes...you are held responsible for all traffic laws...
18. **(Hawkins-Wynn)** Excuse me...maybe, I should be reading the code. What is the code section and how does it refer to a bicycle?
19. **(Fleming)** If you look at page 6, I have defined what each one of those meant under the Georgia Code and that is what they cited him for.

**Special Note: Vice Chair Pitre** reminded board members to state their name before they comment.

20. **(Orange)** I read those code sections, but they said vehicle. They did not state bicycle.
I know that we might be getting caught in the intricacies of the stop, but part of his complaint was the false arrest. If they stopped him on his bicycle… I’m just trying to figure out these code sections that they use specifically applies to a vehicle. They are saying improper tail light… improper tag light. How many people on a bike would have tags and tag lights? Are these codes for bicycles or are we missing something?

21. (Robertson) They are for both.
22. (Hawkins-Wynn) I would argue a little differently because I have seen code sections that refer to motorized vehicles… like bicycles and… I don’t think that we can assume that vehicles are all inclusive of all those categories. Can we?
23. (Fleming) And that would be one of the arguments in traffic court… That is something that he should have argue in court or it might have been argue in court and they didn’t apply it. We don’t know.
24. (Hawkins-Wynn) But again, what we do know is that the charges were not pros; which means that there was no fine… the court decided to not move against him at that point.
25. (Bozarth) They cited him for three (3) infractions. One, he did not have a headlight. Secondly, he was on the wrong side of the street, and even being on the wrong side of the street, he wasn’t maintaining the lane. I am a bicker and I am pretty sure that one of those three you are absolutely not supposed to do in the streets of Atlanta or any other jurisdiction is ride on the left side. You are supposed to ride with the traffic. At the very least, it would be a legitimate reason for stopping him.
26. (Pitre) Riding at night, you have to have a reflector light…
27. (Bozarth) You have to have a headlight. So, if the committee wants to discuss it further, that’s fine, I am ready to make a motion to…
28. (McDaniel) The suspicious person stopped, do you think that is why he wasn’t taken to the magistrate judge as he was supposed to have been and taken to the Atlanta City Jail instead?
29. (Fleming) I, not only think that they cited him for riding the bike, but he had marijuana and had a warrant...

C. BOARD’S VOTE ON ALLEGATION OF FALSE IMPRISONMENT

Bozarth moved to accept staff’s recommendation to assign a finding of Not Sustained for allegation of False Imprisonment against Officers Clayton and Jones. McDaniel seconded. Hearing no further discussion, the vote was called and the motion was approved by Pitre, Williams, Bozarth, McDaniel, Orange, Groves, and Hopkins with one opposed vote (Hawkins-Wynn).

D. BOARD’S VOTE ON ALLEGATION OF DISCRIMINATION

Discussion and Comments:

1. (Bozarth) Brian, was there any indication that he was singled out for any reason because of his ethnicity?
2. (Fleming) No.

McDaniel moved to accept staff’s recommendation to assign a finding of Not Sustained for allegation of Discrimination against Officers Clayton and Jones. Bozarth seconded. Hearing no further discussion, the vote was called and the motion was approved unanimously by Pitre, Williams, Bozarth, McDaniel, Orange, Groves, Hopkins and Hawkins-Wynn.

E. BOARD’S VOTE ON ALLEGATION OF APPROPRIATE ACTION REQUIRED

Issue #1

Discussion and Comments:

(Bozarth) Since he did have an outstanding warrant in another county, they certainly had a reason to arrest him at that point. Had they done anything more than bicycle infractions, that would not have been appropriate, but having a warrant, I don’t think they had any other choice.
Williams moved to accept staff’s recommendation to assign a finding of Exonerated for allegation of Appropriate Action Required, as it relates to Issue #1 against Officers Clayton and Jones. McDaniel seconded. Hearing no further discussion, the vote was called and the motion was approved unanimously by Pitre, Williams, Bozarth, McDaniel, Orange, Groves, Hopkins and Hawkins-Wynn.

Issue #2

Williams moved to accept staff’s recommendation to assign a finding of Exonerated for allegation of Appropriate Action Required, as it relates to Issue #2 against Officers Clayton and Jones. Hopkins seconded. Hearing no further discussion, the vote was called and the motion was approved unanimously by Pitre, Williams, Bozarth, McDaniel, Orange, Groves, Hopkins and Hawkins-Wynn.

Issue #3

Ward-Groves moved to accept staff’s recommendation to assign a finding of Not Sustained for allegation of Appropriate Action Required, as it relates to Issue #3 against Officers Clayton and Jones. Orange seconded. Hearing no further discussion, the vote was called, and the motion was approved unanimously by Pitre, Williams, Bozarth, McDaniel, Orange, Groves, Hopkins and Hawkins-Wynn.

F. BOARD’S VOTE ON ALLEGATION OF CONDUCT

Bozarth moved to accept staff’s recommendation to assign a finding of Not Sustained for allegation of Conduct against Officers Clayton and Jones. Hawkins-Wynn seconded. Hearing no further discussion, the vote was called and the motion was approved unanimously by Pitre, Williams, Bozarth, McDaniel, Orange, Groves, Hopkins and Hawkins-Wynn.

ACRB CASE NO 16-184

A. ALLEGATION SUMMARY

The Complainants alleged that on November 5, 2016, at or in the vicinity of 2217 Faulkner Road, Atlanta Police Lieutenant Mark Cotter and Officer Curtis Cogdell unlawfully detained and falsely arrested him. The Complainant also alleged that Lt. Cotter acted inappropriately when he ordered Officer Cogdell to tase him. He further alleged that Lt. Cotter continuously harasses him by sporadically showing up at his business and running his and his customers’ license plates.

B. STAFF RECOMMENDATION

I. Allegation of False Imprisonment

Issue: Did Lt. Cotter and Officer Cogdell have “Reasonable Articulable Suspicion” to stop and detain the Complainant?

The ACRB staff recommends that the allegation of False Imprisonment against Lt. Cotter be assigned a finding of Sustained (the investigation established that there is sufficient evidence that the officers committed the allege acts of misconduct).

II. Allegation of Appropriate Action Required

Issue #1: Did Lt. Cotter and Officer Cogdell have probable cause to arrest the Complainant?
The ACRB staff recommends that the allegation of **Appropriate Action Required, as it relates to the false arrest claim**, against Lt. Cotter and Officer Cogdell be assigned a finding of **Sustained** (*the investigation established that there is sufficient evidence that the officers committed the alleged acts of misconduct*).

**Issue #2:** Did Lt. Cotter fail to perform his official acts in a lawful, restrained dignified, impartial, and reasonable manner when he threatened to tase the Complainant?

The ACRB staff recommends that the allegation of **Appropriate Action Required, as it relates to this issue**, against Lt. Cotter be assigned a finding of **Sustained** (*the investigation established that there is sufficient evidence that the officers committed the alleged acts of misconduct*).

### III. Allegation of Harassment

The ACRB staff recommends that the allegation of **Harassment** against Lt. Cotter be assigned a finding of **Sustained** (*the investigation established that there is sufficient evidence that the officers committed the alleged acts of misconduct*).

**Discussion & Comments...**

1. **(Bozarth)** Two off-duty officers, working basically in an industrial area...all the potential. I know that area...there is a bunch of warehouses and businesses that house varies commercial activities. Look like Lt. Cotter was going above and beyond the call of duty to try and follow up on one of the other property owners that had suggested that something was elicited going on inside the complainant’s building. The staff, Brian (Flemings) has gone through this...said that that might be admirable...he makes a good point regarding some of the activities that was done. He had a copy of a warrant that was old... There are several charges and I think Brian(Flemings) has reached the right conclusion.

2. **(Hawkins-Wynn)** These officers were second job officers?

3. **(Fleming)** Yes. They were working extra jobs.

4. **(Ward-Groves)** I support the investigator. It was interesting that the dash camera...there were no footage and they had code 83, (Wanted or Escaped Person).

5. **(Hawkins-Wynn)** Also in the language on page 6, it seems that the officer said...he qualified having a warrant. He said may have a warrant. Seem like that alone would have led to further inquiries.

### C. BOARD’S VOTE ON ALL ALLEGATION OF FALSE IMPRISONMENT – LT. COTTER AND OFFICER COGDELL - FALSE IMPRISONMENT

**McDaniel** moved to accept staff’s recommendation to assign a finding of **Sustained** against Lt. Cotter and Officer Cogdell. **Hawkins-Wynn** seconded. Hearing no further discussion, the vote was called and the motion was approved unanimously **Pitre, Williams, Bozarth, McDaniel, Orange, Ward-Groves, Hawkins-Wynn, Hopkins**.

### D. BOARD’S VOTE ON ALLEGATION OF APPROPRIATE ACTION REQUIRED – LT. COTTER AND OFFICER COGDELL – ISSUE #1

**Bozarth** moved to accept staff’s recommendation to assign a finding of **Sustained** against Lt. Cotter and Officer Cogdell. **Williams** seconded. Hearing no further discussion, the vote was called and the motion was approved unanimously **Pitre, Williams, Bozarth, McDaniel, Orange, Ward-Groves, Hawkins-Wynn Hopkins**.

### E. BOARD’S VOTE ON ALLEGATION OF APPROPRIATE ACTION REQUIRED ISSUE #2 – LT COTTER
Ward-Groves moved to accept staff’s recommendation to assign a finding of **Sustained** against Lt. Cotter. McDaniel seconded. Hearing no further discussion, the vote was called and the motion was approved unanimously Pitre, Williams, Bozarth, McDaniel, Orange, Ward-Groves, Hawkins-Wynn Hopkins.

**F. BOARD’S VOTE ON ALL ALLEGATION OF HARASSMENT – LT. COTTER**

Discussion & Comments...

1. **(Bozarth)** Brian, did you ever have anyway substantiating the suspicious behavior...
2. **(Fleming)** No.
3. **(Bozarth)** Did you see any indication that there could have been some truth to that at all?
4. **(Fleming)** I don’t know what was happening in the Complainant’s business. He said that it was a studio. The officer said that it was a massage place. We don’t know.
5. **(Bozarth)** There were two females witnesses that contest that. Did you get a story from them?
6. **(Fleming)** They did not cooperate. There were three witnesses. None of them cooperated.
7. **(Bozarth)** Were the two women on the scene that night?
8. **(Fleming)** Yes, the complainant said that they came after the fact...after he had surrendered to the police.
9. **(Hawkins-Wynn)** One last question. This is against Officer Cotter alone.
10. **(McDaniel)** Do you know if there was prostitution going on? Does that really matter in this case?
11. **(Fleming)** No. This officer went beyond the scope of his duties.
12. **(McDaniel)** Right. Because he had not authority to check licenses. It wasn’t his zone. Just doing the extra duty...
13. **(Fleming)** Right.
14. **(Ward-Groves)** This is the case where the gentlemen kept going places and saying, “he’s following me.” Is this the one?
15. **(Fleming)** Yes, he said, “Why are you following me?”
16. **(Hawkins-Wynn)** Outside of the complex itself, he was following outside of the complex?

Hopkins moved to accept staff’s recommendation to assign a finding of **Sustained** against Lt. Cotter. McDaniel seconded. Hearing no further discussion, the vote was called and the motion was approved unanimously Pitre, Williams, Bozarth, McDaniel, Orange, Ward-Groves, Hawkins-Wynn Hopkins.

Continued Discussion & Comments...

1. **(Orange)** I have a question about them running people license plates... I know that the law states that unless you have a case number, or if you specifically see someone committing a crime, that is illegal. So, were there going to be any type of internal investigation against him for doing that? Because that is violation of state and federal...
2. **(Fleming)** You mean if APD will run an investigation? I can’t speak for APD. I don’t know, but I know as far as what we can do. It was illegal...I’m sorry, it was not proper, according to his duties working an extra job. What we were simply saying is...in his statement he said that he was armed with old information and he believed that this guy was wanted. Did I answer your question?
3. **(Orange)** That’s not the issue. I got that part. The part that I am talking about is when he said that...somebody went to him and said that it was illegal activity and as a result, he was running the license plates of the people who had visited...
4. **(Fleming)** I believe that they will. That is way out of the scopes of his duties.
5. **(Orange)** Right, that’s what I was saying, because that is completely illegal.
6. **(Fleming)** If you feel that APD should launch an investigation, you all have that power. Now, I understand what you are saying. Yes, that is why we sustained it.
7. **(Vice Chair Pitre)** That would have been a different case if the property manager had a vehicle on the property that he felt should not have been there.
8. **(Fleming)** I guess another example would be...he saw the complainant hypothetically, doing something illegally in his car...or something like that. What is the action crime that you are seeing...being done on the property? You need to be able reasonably articulate why are you running the license plates?
G. BOARD’S DISCIPLINE RECOMMENDATION FOR APPROPRIATE ACTION REQUIRED AND FALSE IMPRISONMENT FOR LT. COTTER & OFFICER COGDELL

Officer Information and Professional Standards History – Lt. Cotter:
Lieutenant Cotter has been employed with the Atlanta Police Department since January 7, 1997. Lt. Cotter has had two (2) complaints; a vehicle and this case with ACRB (case was investigated by OPS as an appropriate action required (exonerated) within the last five years.

Penalty Options: Category A – Oral admonishment, written reprimand and/or training

Discussion & Comments...

1. (Hawkins-Wynn) He was exonerated? OPS found him exonerated for this case?
2. (Fleming) Yes.
3. (Hawkins-Wynn) What does that mean?
4. (Bozarth) They don’t agree with our conclusions.
5. (Hawkins-Wynn) I’m asking when OPS exonerate an officer, why did they find it so differently? What is the rational?
6. (Fleming) When I was researching the file, Lt. Cotter was exonerated because his extra job permits some reasonable explanation why he is at the scene regularly. According to OPS, there is no indication that Lt. Cotter acted inappropriately during this incident. I want to note that, he filed a civil suit... There were certain aspects that they looked at and we looked at that mirrored each other. For whatever reason, they said exonerated. We are saying no. I hope that answered your question.
7. (Bozarth) Well, here is the dilemma, I believe that we want our police officers not only to react to criminal behavior, but to try and prevent it before it happens. While I agree with the rule to sustain, I am not inclined to come down heavy on the Lieutenant Cotter. I think that we want officers to try to anticipate things and there are certain ways of doing that within the frame work of SOP. I don’t want to send a message from this board that if you go out and you see something and do nothing. In this case, I don’t think that we should be too hard on the Lieutenant, especially, since he doesn’t have a sustained record.
8. (Hawkins-Wynn) I agree. Seems like he was overzealous. Even the policy as to when to run tags...I just thought that that was universal. They did it under any circumstances to determine the validity of registration and all that. Seemed overzealous and he could have easily determined that there was no warrant which would not have given a probable cause of an arrest.
9. (McDaniel) I do think that he should be trained on the policy of running tag and also appropriate action within and without his jurisdiction. I think that he should receive a written reprimand.
10. (Robertson) Can I interject? Before you make your recommendation, keep in mind that OPS has already made a decision on these allegations. So, I think that you can still make a recommendation, but phrase it that you disagree with APD findings and he should have received, XYZ.
11. (McDaniel) I disagree with APD findings and recommends that he receive at least a reprimand. Because it is serious for him to be out of his jurisdiction running tags. Also, for the fact he had some warrants that he didn’t take the time out to check...he should have done due diligence.
12. (Hawkins-Wynn) My understanding is that there was no a subsequent penalty or punishment...
13. (Fleming) He was exonerated.
14. (Hawkins-Wynn) I agree. I think a minimum oral admonishment. Based on what she said, lack of due diligence and determining that there are no valid warrants out.
15. (Orange) I kind of disagree. The reason why I disagree is because we are saying on one part he was overzealous and then another part, he was doing his job. We can’t have it both ways. Had he not been using that system to run those tags, he would not have known about that warrant and then, as being as eager as he was, at the onset of his complex investigation, he was not as zealous when it came time for him to actually to check that warrant 2-3 weeks later to see if it was valid because that information in the system, changes by the minute. Because the penalties are so stiff, when it comes to running that information, through those systems. I think that he should receive more than a written reprimand.
16. (Fleming) We are looking at false imprisonment and appropriate action required is Category A. Harassment is a Category B.
17. (Robertson) Let me interject. I think it will be better if we dealt with one allegation at a time. Because what Orange is saying, pertains to one allegation and the arrest allegation deals with appropriate action required and the running of the tags falls under the harassment allegation.
18. (Fleming) So, what you are looking at is detainment and his subsequence arrest.
19. (Hawkins-Wynn) So the false imprisonment arises out of the wrongful arrest?
20. (Fleming) That deals with the detainment. When she says appropriate action required, that deals with his arrest.
21. (Pitre) I think with the officers their reports were consistent considering what he alleged about the tazing.
22. (Hawkins-Wynn) I think the question becomes, when does the citizen have the right to resist arrest? I think that is the balance. Clearly when we find a suspect or a person in question in an investigatory capacity runs, everything escalates…I believe that his position was that, somebody else got tazed and they got really hurt…so he ran. Not to say that he didn’t have the right to resist arrest. Part of it is getting into the officers’ head, if you run, what is happening in that situation.

McDaniel moved to recommend that Lt. Cotter and Officer Cogdell receive a written reprimand as a penalty for the Appropriate Action Required and False Imprisonment allegations. Hearing no further discussion, the vote was called and the motion was approved (Pitre, Williams, McDaniel, Orange, Ward-Groves, Hopkins) with two opposed votes (Bozarth & Hawkins-Wynn)

BOARD’S DISCIPLINE RECOMMENDATION FOR HARASSMENT – LT. COTTER

Penalty Options: Category B -written reprimand; one (1) to three (3) days suspension and/or training

1. (Hopkins) So you want to do a 3-day suspension and training. I can see the 3-day suspension. I am not with the training.
2. (McDaniel) Well, he was out of his jurisdiction. He ran license plates within a zone that he wasn’t assigned to. He was doing extra duty. Either he doesn’t know what the procedure is or he doesn’t care. So, I think that he needs to be trained on what you do in your jurisdiction and what you are able to do when you are during extra duty.
3. (Hawkins-Wynn) What does that mean if you are an APD officer…from my understanding, as a second moonlighting job, you are out of your jurisdiction?
4. (Fleming) Your assigned post might be in Zone 2, but your job might be in Zone 5.
5. (Hawkins-Wynn) I understand that, but does that what makes it in violation because he is not in his assigned zone? He was running license plates in a zone that he was not assigned to.
6. (Lt. Bennett) Brian (Fleming) has been in our office twice regarding that file. He has more knowledge about that file than I do. I don’t know anything about it. As to the general questions on jurisdiction, my jurisdiction is in the city limits of Atlanta, 24 hours, 7 days a week. I don’t work a zone. I am assigned in the Office of Professional Standards. But, if I am off duty and I am riding around through Buckhead and I see someone shooting somebody…better get handcuffs on them…Police in the city and every jurisdiction…work off-duty jobs that has nothing to do with their assigned…Lt. Cotter has full police authority…if he has a valid signed extra job request, by state law… I am assuming he did Brian?
7. (Fleming) Yes.
8. (Lt. Bennett) He can police 24/7… The jurisdiction doesn’t matter. He can be assigned in Zone 6 and work in Zone 2 and do all the police action he wants to do. As to the tag, officers can run tags on duty or on their second job… You have no reasonable expectation of privacy through your tag information and if your tag information is connected to a warrant…you are going to jail. Police officers can run tags all day long. I believe that the situation that Ms. Orange is describing is where an officer is using his/her police authority to run a tag other than criminal justice purposes.
9. (Fleming) If you look at page 17, it really points out what you are deciding on…harassment. He’s saying, Lt. Cotter shows up at his business sporadically and run license plates. That is the part that you would draw in on...
10. (McDaniel) And that is why you sustained it?
11. (Fleming) Yes.
12. (Bozarth)... He has a second job at the warehouse...
13. (Fleming) And as far as him (officer) just showing up sporadically, he works there. He’s hired by them. They are going to see each other. Just running tags, we kind of disagree with APD on that matter.
14. (Hawkins-Wynn) I think that the standard is that there is no expectation of privacy.
15. (Lt. Bennett) There is not. You must register your vehicle with the government. When you do that, you give up your reasonable expectation of privacy to what status of your registration is. It would be
a gray area for someone with a law degree as far as the vehicle being in your driveway. If the officer couldn’t see your tag clearly from the street. Could they go up in your driveway and do it? That may or may not be true. But if your tag is visible to a police officer, in the performance of their lawful duties, then he/she may run that tag at will.

*Orange* moved to recommend that Lt. Cotter receive a 3-day suspension penalty and training for the Harassment allegation. *McDaniel* seconded. Hearing no further discussion, the vote was called, and the motion was approved (*Pitre, Williams, McDaniel, Orange, Ward-Groves, Hopkins*) with two opposed votes (*Bozarth & Hawkins-Wynn*).

**ACRB CASE NO 17-091**

A. **ALLEGATION SUMMARY**
The Complainant alleged that Atlanta Police Officers Brian Hill and Charles Ross harassed him when they, (1) arrested him on June 20, 2017 for possession of a controlled substance, and (2) told the Complainant that every time they see him in the Lakewood area, they were going to arrest him.

B. **STAFF RECOMMENDATION**

The ACRB staff recommends that the allegation of Harassment against Officers Brian Hill and Charles Ross be assigned a finding of **Not Sustained** *(the investigation failed to prove or disprove the alleged act(s) occurred)*.

*Discussion & Comments…*  

*(Orange)* In that situation, before the officer acted on making the arrest, he did due diligence…investigated and looked at the tapes before he even approached the guy. I am going to go that we accept staff recommendation to not sustain on harassment. As far as the false arrest goes, he pleaded guilty.

C. **BOARD’S VOTE ON HARASSMENT ALLEGATION**

*Orange* moved to accept staff’s recommendation to assign a finding of **Not Sustained** for Harassment allegation against Officers Hill and Ross. *Ward-Groves* seconded. Hearing no further discussion, the vote was called and the motion was approved unanimously by *Pitre, Williams, Hopkins, Bozarth, McDaniel, Orange, Ward-Groves, Hawkins-Wynn*.

**ACRB CASE NO 17-101**

A. **ALLEGATION SUMMARY**
The Complainant alleged that on May 27, 2017, when he went to the Zone 6 Precinct located at 2025 Hosea L. Williams Drive, NE, Atlanta Police Officer Anthony Taijeron-John falsely represented himself as Officer “D.R. Sutton.”

*Special Note: It should be noted that at this time, Investigator Fleming informed the board that the Complainant for case #17-101 was in the audience.*

B. **STAFF RECOMMENDATION**

The ACRB staff recommends that the allegation of Conduct against Officer Anthony Taijeron-John be assigned a finding of **Unfounded** *(the investigation established that the Officer did not commit the alleged act(s) of misconduct)*.
Discussion & Comments…

1. **(Williams)** Because there were no witnesses, and no video footage of the alleged incident, I agree with staff’s recommendation.

2. **(Bozarth)** It’s just a matter of not having…information necessary to sustain the case. The recommendation for the complainant’s complaint is unfounded on the bases of Investigator Fleming’s findings. I believe that he checked where was this officer on the day of question. I think that this is the evidence that we are working with. I would agree base on that, I don’t think that we can do anything than to vote unfounded.

**Bozarth** moved to accept staff’s recommendation to assign a finding of **Unfounded** for **Conduct** allegation against Officer Taijeron-John. **Hawkins-Wynn** seconded. Hearing no further discussion, the vote was called and the motion was approved unanimously by **Pitre, Williams, Hopkins, Bozarth, McDaniel, Orange, Ward-Groves, Hawkins-Wynn.**

ACRB CASE NO 17-132

A. **ALLEGATION SUMMARY**

   The Complainant alleged that on October 22, 2017, he was unlawfully stopped, detained and arrested by Atlanta Police Officers Danielle Wertz and Anthony Grant for a non-working brake light. The Complainant also alleged that Officers Wertz and Grant illegally searched his vehicle.

B. **STAFF RECOMMENDATION**

I. **False Imprisonment:**

   The ACRB staff recommends that the allegation of False Imprisonment against Officers Danielle Wertz and Anthony Grant be assigned a finding of **Exonerated** (the investigation established that the alleged acts occurred but were justified, legal or properly within Department policy).

II. **Appropriate Action Required**

   **Issue #1:** Did Officer Wertz and Grant have probable cause to conduct a search of the Complainant’s vehicle?

   The ACRB staff recommends that the allegation of Appropriate Action Required, as it relates to this issue, against Officers Wertz and Grant be assigned a finding of **Exonerated** (the investigation established that the alleged acts occurred but were justified, legal or properly within Department policy).

   **Issue#2:** Did Officer Wertz and Grant have probable cause to arrest the Complainant?

   The ACRB staff recommends that the allegation of Appropriate Action Required, as it relates to the false arrest claim, against Officers Wertz and Grant be assigned a finding of **Exonerated** (the investigation established that the alleged acts occurred but were justified, legal or properly within Department policy).

Discussion & Comments…

1. **(Bozarth)** My notes say, on October 22nd, last year around 10:30 p.m. near Mechanicville; two officers in question pulled over the complainant because one of his brake lights was not working…the one in the back window. That led to a series of events…one of the officers smelled marijuana. They ran his license and they found out that he had a warrant because he didn’t appear
for a case in court. It had to do with his child support. They ultimately searched the car and found a small amount of marijuana. The Complainant spent the night in jail and his case was heard in late November 2017 in State Court. Kabral (Investigator Brathwaite) told me late afternoon, his case will come up in 2 years. So, he sits in limbo...

2. (McDaniel) Is it out of the ordinary for them to allow a family member to come and retrieve the car instead...

3. (Brathwaite) It’s pretty standard courtesy. They save the person that’s going to jail from impound fees.

4. (Hawkins-Wynn) The defendant was stopped as a result of defective equipment? Is that correct? Upon checking the license...was determine that there was a warrant out for his arrest?

5. (Brathwaite) Yes. He had a warrant out for a FTA, Failure to Appear, for a child support issue. That was determined once the stop was in effect.

6. (Hawkins-Wynn) So, it’s based on the officer arresting him based on failure to appear warrant?

7. (Brathwaite) The warrant is automatic that you will be arrested. Had he not come back wanted, he would have received a citation.

8. (Robertson) I just want to interject. He also had a suspended license.

9. (Bozarth) What bothered me about this is...he’s got two working taillights as he said...Did you check on the ordinance on the taillights? You said any taillight on a car must be operative or it is in violation. Is that correct?

10. (Brathwaite) Yes, sir. It falls under Code Section 40-8-26.

11. (Hawkins-Wynn) It’s within the officer’s discretion if there’s defective equipment. Is it within the officer’s discretion to cite if there is something defective about the vehicle, but not preventing it...

12. (Lt. Bennett) Any citation is within an officer’s discretion...the answer to your question...Yes.

13. (Williams) I just want to say in an effort for us not to get bogged down on this particular case, I think the issue here is that he was pulled over...that light did not work and he had two issues against him. That is what the bottom line is. I think us trying to second guess whether or not the officer should have pulled him over...is not a dispute here. Once he was stopped, he had two serious issues and in the defense of the police, a lot of time, this is how we find harsh criminals, when we stop them for a minor infraction. At some point, there is no perfect system and there is always discretion. But the issue at hand is when he was pulled over and he had two issues, he should have not been driving anybody’s car and he had a failure to appear.

14. (Hawkins-Wynn) I don’t know however, officers do have discretion and what I think that I was hearing was that there were several lights that were operable.

15. (Williams) I understand, I got pulled over having my high beam lights on for two seconds. I get it, but when they ran my plates, I didn’t have suspended license and... Do you see what I am saying? So, once you are pulled over...

16. (McDaniel) And the defective brake light was the probable cause.

C. BOARD’S VOTE ON FALSE IMPRISONMENT ALLEGATION

Williams moved to accept staff’s recommendation to assign a finding of Exonerated for False Imprisonment allegation against Officers Wertz and Grant. McDaniel seconded. Hearing no further discussion, the vote was called and the motion was approved unanimously by Pitre, Williams, Hopkins, Bozarth, McDaniel, Orange, Ward-Groves and Hawkins-Wynn.

D. BOARD’S VOTE ON APPROPRIATE ACTION REQUIRED ALLEGATION ISSUE #1

Williams moved to accept staff’s recommendation to assign a finding of Exonerated for Appropriate Action Required, as it relates to Issue #1 allegation against Officers Wertz and Grant. Hopkins seconded. Hearing no further discussion, the vote was called and the motion was approved unanimously by Pitre, Williams, Hopkins, Bozarth, McDaniel, Orange, Ward-Groves and Hawkins-Wynn.

E. BOARD’S VOTE ON APPROPRIATE ACTION REQUIRED ALLEGATION ISSUE #2

Williams moved to accept staff’s recommendation to assign a finding of Exonerated for Appropriate Action Required, as it relates to Issue #2 allegation against Officers Wertz and Grant. Ward-Groves
seconded. Hearing no further discussion, the vote was called and the motion was approved unanimously by Pitre, Williams, Hopkins, Bozarth, McDaniel, Orange, Ward-Groves and Hawkins-Wynn.

ACRB CASE NO 17-127

A. ALLEGATION SUMMARY
The Complainant alleged that on October 5, 2017, Atlanta Police Investigator Bradley Etterle failed to take appropriate action when he “decided to bust into my house and pull me out of bed...” during the execution of an arrest warrant. The Complainant further alleged that Investigator Etterle “acted belligerent and overpowering.”

B. STAFF RECOMMENDATION

I. Appropriate Action Required Allegation:

Based on the Body Worn Camera (BWC) footage reviewed that captured this incident, the ACRB staff recommends that the allegation of Appropriate Action Required against Investigator Etterle be assigned a finding of Exonerated (the investigation established that the alleged acts occurred but were justified, legal or properly within Department policy).

II. Conduct Allegation:

Based on the BWC footage reviewed, the ACRB staff recommends that the allegation of Conduct against Investigator Bradley Etterle be assigned a finding of Unfounded (the investigation established that the officer did not commit the alleged acts of misconduct).

Discussion & Comments...

(Bozarth) I came down here earlier to watch the BWC footage. It was nineteen minutes. I saw the entire incident. The two officers enter the apartment and approached the complainant. There was absolutely no truth whatsoever to his contentions, if any...inappropriate actions. That is the nice thing about BWCs. You can tell what happened. In this case, I think they exonerated the officers...exonerated the appropriate action required. It was unfounded on conduct. I think with no evidence; the case is in the officers’ favor.

C. BOARD’S VOTE ON APPROPRIATE ACTION REQUIRED ALLEGATION

Bozarth moved to accept staff’s recommendation to assign a finding of Exonerate for Appropriate Action Required allegation against Investigator Etterle. Williams seconded. Hearing no further discussion, the vote was called and the motion was approved unanimously by Pitre, Williams, Hopkins, Bozarth, McDaniel, Orange, Ward-Groves, Hawkins-Wynn.

D. BOARD’S VOTE ON CONDUCT ALLEGATION:

Bozarth moved to accept staff’s recommendation to assign a finding of Unfounded for Conduct allegation against Investigator Etterle. Williams seconded. Hearing no further discussion, the vote was called and the motion was approved unanimously by Pitre, Williams, Hopkins, Bozarth, McDaniel, Orange, Ward-Groves, Hawkins-Wynn.
NEW BUSINESS

None

PUBLIC COMMENTS:

(Special Note: ACRB staff has made every effort to capture comments as stated by each speaker; however, in some instance the words may have been inaudible and therefore, unable to transcribe verbatim. In such cases, staff attempted to capture, at best, the essences of the statement.)

Only one person signed up to speak.

Speaker: Stuart Satterfield

Mr. Satterfield expressed his concerns about the board’s decision in his case.

ADJOURNMENT

No further business, by show of consensus, the meeting adjourned at 8:05 P.M.