Ms. Cecilia Houston-Torrence, Chairwoman  
Atlanta Citizen Review Board  
City Hall Tower - Suite 9100  
55 Trinity Avenue SW  
Atlanta, GA 30303

Re: APD OPS File #19-C-0376-MISC / ACRB File #18-126

Dear Ms. Cecilia Houston-Torrence:

I am in receipt of the Atlanta Citizen Review Board’s letter regarding the complaint of Mr. [redacted], the alleged actions of Atlanta Police Officers Charles Phillips and Rawdon Lorde, and the Board’s determination. An investigation by the Atlanta Police Department’s Office of Professional Standards was completed. This letter serves, in accordance with Sec. 2-2213 of the City of Atlanta Code of Ordinances, as a delineation of action taken with respect to the Atlanta Police investigation of the event.

The Atlanta Police Department’s Office of Professional Standards conducted and closed an investigation into the incident after the Board finalized an investigation of a complaint from Mr. [redacted]. The Office of Professional Standards did reach a determination of Exonerated on an allegation of Appropriate Action Required. Officers Phillips and Lorde were conducting surveillance on a suspected narcotics dealer as part of a narcotics investigation. From the brief duration of the witnessed meeting of the dealer and Mr. [redacted]’ friend) with [redacted] alongside waiting, to the observed hand-to-hand transaction of cash for narcotics, to the rapid departure of all parties, all the indicators of a scheduled meet-up for a narcotics purchase were evident. Officers Phillips and Lorde maintained their concealed position until the dealer left, then performed what is commonly referred to as a pretextual stop on Mr. [redacted] and Mr. [redacted]. Whren v. United States, 517 U.S. 806 (1996). The pretextual stop was made on their pedestrian violation and the underlying crime being investigated was OCGA §16-13-30 Purchase of Controlled Substances. At issue here was the purchase of a 27-gram bag of marijuana (1oz = 28.35g). While mere possession of less than 1oz of marijuana has been deemed a ticket offense in the City, Sale and Purchase of Controlled Substances are still felony offenses in the State of Georgia.

With respect to Mr. [redacted]’ friend), his witnessed and direct participation in the purchase of the 27-gram bag of marijuana would have readily supported a felony charge for Purchase under the State Code. Mr. [redacted] walked with his friend Mr. [redacted] to the meet-up location, staying back on the sidewalk during the purchase waiting. It can be articulated [1]that Jones provided security for [redacted] carrying an amount cash to the meet-up with the narcotics dealer, [2]that [redacted] provided overwatch for [redacted] during the transaction, [3]that Jones acted as a lookout for police during the illegal narcotics transaction, and [4]that [redacted] stood to benefit in the narcotics if he had not already contributed to the purchase funds. These articulations of [redacted] as a party to the crime of Purchase observed by the officers would have made him subject to the same underlying narcotics investigation in the subsequent pretextual stop for “jaywalking”.

Regarding the alleged illegal search of Mr. [redacted], the complainant [redacted] was under arrest for the pedestrian violation and under investigation for his participation in the witnessed narcotics purchase. Mr. [redacted] had fully cooperated with Officer Lorde and produced a 27-gram bag of marijuana, as seen in the BWC video. At this point, the Purchase of Marijuana crime had been fully established and Mr. [redacted] could have been fully searched incident to arrest for other evidence or fruits of the crime. Per Officer Lorde’s statement, the officers had lost sight of Jones and Laveau for some minutes until the narcotics dealer left the parking lot. This was enough time for Mr. [redacted] to have possibly transferred contraband to Mr. [redacted]. A search of Mr. [redacted] was lawful and within policy based on these criteria.

The Office of Professional Standards agreed with the Board’s determination of Exonerated on its False Imprisonment allegation. However, OPS did not agree on the Sustained determination by the Board on its allegation of Appropriate Action Required related to illegal search claimed by Mr. [redacted] for the reasons contained in the analysis of the incident above.

I appreciate the opportunity to correspond with the Atlanta Citizen Review Board, and to be made aware of the concerns of the Board. Please do not hesitate to reach out with any future questions.

Sincerely,

Erika Shields
Chief of Police
City of Atlanta Police Department

ES/sj