



## **ATLANTA CITIZEN REVIEW BOARD**

### **JULY MEETING MINUTES**

55 Trinity Avenue, S.W., Committee Room One  
Atlanta, Georgia 30303

July 11, 2013 / 6:30 p.m.

#### **MEETING CALLED TO ORDER**

The meeting was called to order by **Chair Bartels** at 6:39 p.m. He welcomed citizens announcing that public comments will be heard later into the agenda and speakers must sign up and limit comments to three (3) minutes. The **Chair** also welcomed members of the Atlanta Police Department (APD), Office of Internal Affairs, Lieutenant Jesse Webb.

#### **ROLL CALL**

*(Eleven Members of the Board)*

#### **ACTIVE MEMBERS PRESENT**

**PAUL BARTELS** *(Chair/Bartels)*

**OSA BENSON** *(Benson)*

**BILL BOZARTH** *(Bozarth)*

**WILLIAM HARRISON** *(Harrison)*

**BARBARA HUBBARD** *(Hubbard)*

**RYAN JOHNSON** *(Johnson)*

**RUTH PRICE** *(Price)*

#### **ACTIVE MEMBERS ABSENT**

**ALAN MORRIS** *(Morris)*

**LABRIAH LEE** *(Lee)*

**MACEO WILLIAMS** *(Williams)*

#### **ONE VACANT APPOINTMENT**

*Atlanta Business League (vacant 13 month)*

## **A G E N D A**

#### **APPROVAL OF MINUTES OF THE LAST MEETING, JUNE 13, 2013**

The **Chair** directed the Board's attention to the minutes for June 13, 2013 meeting. The floor was open for discussion, corrections and a motion. **Benson** moved to approve. **Price** seconded. The

motion was approved with one abstention from **Johnson** who indicated that he abstained from voting because he was not present at the last meeting.

## **EXECUTIVE DIRECTOR REPORT**

The following are highlights from Director **Reid's** report:

### **A. BOARD RETREAT**

The Board had its second retreat facilitated by Clarification Mediation (CM). **Reid** thanked those members who were able to attend. He indicated that as soon as the CM facilitator prepares their notes, this information will be forward to the board members.

### **B. COMMUNITY OUTREACH**

**Reid** reported on events and interviews over the past month including an interview with the Overground Railroad (electronic newsletter/[www.overgroundrr.com](http://www.overgroundrr.com)) and CW-69 TV interview with Keisha Lancelin (*scheduled to run July 7<sup>th</sup>*). A copy of the interview with Lancelin has been requested for the website and Facebook page.

ACRB Outreach Liaison **Tracy Taylor** also briefed the Board about additional outreach activities. Per her report, the following activities are scheduled for July and August: Music on Main Street in College Park and National Night Out (NNO) on August 6<sup>th</sup> from 5:30 p.m. to 8:30p.m. With regards to National Night Out, ACRB will partner with the Pittsburgh Community, and information about NNO will go out to the Board prior to August 6. Other events that are in the works or either being considered: Vine City/English Avenue Family Reunion, August 10<sup>th</sup> from 11:00 a.m. to 7:00 p.m. at Joseph E. Boone on Vine Street; the West End Heritage Festival, September 21<sup>st</sup> and Street Smarts festival, September 28<sup>th</sup> at 590 North Avenue Community Center. **Taylor** also noted that interviews and PSA were running on Streetz 94.5 Radio, City Channel 26 TV, WAOK Radio and V-103 Radio.

**Reid** announced that the office was hosting an Art / Essay Contest for grades 3 to 12. **Reid** said, "The whole idea behind these contests are really to promote discussion with youth about interaction with police officers, and also get some feedback from youth about what they see in their communities, in their neighborhoods as far as police actions goes. The date for the essay contest, which is for the older kids, is July 15<sup>th</sup> through September 16<sup>th</sup>. The essay contests are for middle and high school age students. The art contest is for grades 3 through 5 and the date has not been determined yet, because I'm still waiting on my activities and coloring book to be completed. The illustrators are working on a few more frames, and once that's done then I'll be able to submit that and then kick off some art contest. Because we're dealing with younger kids, I thought it would be great to have a coloring book or an activity book that they go along with, trying to educate them about police and tactics, and also that they can talk with their parents about it. That is what we're trying to really promote and get 'em young', using the whole learning-education thing through art and through words. Also, we're planning on highlighting and exhibiting some of their works around City Hall and other places. So, I'm looking forward to that and I'm excited about it. Later on I'm going to be asking for the Board's assistance in identifying some judges. I have some ideas of judges, but I'd like to get some feedback from you all. The theme of the contest is 'Police in my neighborhood are...'"

*Discussion/Questions...*

1. **Bozarth** asked if the office had the co-operation of the Atlanta Public Schools.
2. **Reid:** *There are several outlets that we will be working with. APS is one that I'm hoping to work with and if anyone else has contacts that would be great. I know initially, I'm going to go through their outreach community affairs, and then we also have some of the camps that we're going to contact. We have agencies that are receiving a flyer and notification of the contests, as well as our email list. We're going to blast it out to everyone, because we really want participation on this. I mean, I think the more we can generate this type of conversation, the better.*
3. **Bozarth:** *From what I know of the summer camp programs that the Parks Department is sponsoring, they are underway. Are you in that loop?*
4. **Reid:** *Yes, we are.*
5. **Bozarth:** *Because the schools started so early, what is it, the 2<sup>nd</sup> of August? So, if you can catch it in the summer cycle, this needs to be ready this month or we're going to miss it.*
6. **Reid:** *Yeah, that's true, and if miss it then we'll just have to push it in to the school year.*
7. **Bozarth:** *You could use some help in reaching the right people at APS?*
8. **Reid:** *Yes. The staff is always willing to talk. So, if anybody has a contact, or connections, we'll definitely use it.*
9. **Bartels:** *This is kind of related, I mean not directly through the contest, but to what extent, if any, do the public schools talk to their students about interacting with police?*
10. **Reid:** *I don't know. Unless the police department is doing something with them, I don't know. I know that they do have those days where, I guess, different careers come in, but I don't know what type of education or presentations that they do with the students.*
11. **Benson:** *Well, I can speak on what my girls experienced. They were in private school, but on field day, they had DEA agents, FBI, and police personnel come in on field day. They set-up tables, arsenal, weapons and training that they did...you know, drug dogs, and the kids were really exposed, probably for the first time, as to what they really do. It was very informative. They loved it.*
12. **Hubbard:** *Isn't that one of the things that they'll be pushing this semester with officers being assigned to each school?*
13. **Reid:** *I would imagine so.*

C. BOARD TRAINING

**Reid** stated that he had sent out an email last week about having a discussion related to the Discipline Matrix Training. He said, "I've heard from a couple of people but not everyone. There are two dates that I'm looking at, July 23<sup>rd</sup> and July 25<sup>th</sup> to do the training. It's going to be the same thing on both days, so whatever day you can come that's cool. Or there's another suggestion, that we have it right before the August Board meeting. We can start about 5:30 p.m. and just talk about the disciplinary matrix and that way people will only have to come down that one time. Now, the problem will be we're gonna have two cases in August, and if we have the FBI come in that will make it a little longer. So, it could be quite a few hours."

*Question...*

1. **Hubbard:** *The disciplinary measures are made up of what?*
2. **Reid:** *With regards to APD discipline, at the Board Retreat, Boardmember Williams had mentioned some of the disciplinary matrix guides and charts that some other precincts use and some other departments have, and he wanted to know why we can't have something like that. We don't design disciplinary matrix, the police department does, and what they have is a pretty extensive matrix and the question was why can't we just create something? My hesitancy in doing that is, if we create something that doesn't include everything that needs to be in there when you're relying on it, without understanding that there are exceptions and considerations, you wind up making the wrong decision.*
3. **Bartels:** *Just to clarify, I think by creating something that we mean is like a reference or a cheat sheet, you know, a quick guide.*
4. **Reid:** *And that's what I want to present to you all at the meeting, but I want to be able to present it and not just hand you something and not talk about it. We need to talk about it as you're looking at it.*

Following the questions, it was concluded that the training would take place on July 23 and July 25 at 5:30 p.m. at the ACRB office in City Hall.

#### D. SOCIAL MEDIA

**Reid** announced that staff was in the process of setting up a Facebook page for the agency. Video footage of the board members introductions will be featured. **Reid** said, "The **Chair** will do an introductory video that will go on our Facebook page and our web page. It's really a process of getting those pages up where we want them to be. At the next Board meeting, or any time you want to come by the office, we would like for you to do a little quick introduction stating your name, who you represent and whatever else you want to say. It doesn't have to be long just something real quick, so we can put it on our website so that people can see who's making decisions."

#### E. ACRB OFFICE

**Reid** introduced Jay Cole who is working in the office as a law intern for the summer. Cole provided the Board with a summary of his background. Cole indicated that he is originally from California and a veteran of the United States Navy. After his Navy career in 2007, he attended college at Winston-Salem State University where he later graduated in 2011. Pursuing a law degree, he attended Elon University School of Law in Greensboro, North Carolina. During his first year as a law student, Jay was chosen as one of the American Bar Association's environmental law fellows. He spent the summer at Duke Law School in an environmental law clinic. In 2012, Jay transferred to John Marshall Law School where he is currently a student. During his internship with the ACRB this summer, he will write and compile a quick reference manual. He said, "It requires a lot of research and a lot of delving into cases; but, I am excited and its work, but I appreciate it."

#### F. MEDIATION PROGRAM

**Reid** explained that he, **Bartel** and **Harrison** met approximately two weeks ago, and discussed the mediation program. He said, "They gave me some good feedback on the materials that I provided to them. As far as anything outside of that meeting, I don't have any update on that yet. That is something that I'll be picking back up towards the end of next week. So, I'll have something to report on that regard at the next meeting."

## INTAKE REPORT FOR JUNE 2013

**Investigator Robertson** reported on the number of complaints received for the month of June 2013. **Robertson** reported that a total of seven (7) complaints were received for the month and they are listed as follows:

1. Complaint Number: ACRB 13-49, Citizen One and Citizen Two alleging excessive force, abusive language and false imprisonment.  
Citizen One and Citizen Two allege that on May 27, 2013, APD Officer Aqueelah James was verbally abusive towards them and their guest. They further alleged that during the incident, Officer James engaged in excessive force and refused to allow them into their apartment. Staff recommends investigation as an excessive force, false imprisonment and abusive language complaint.
2. Complaint Number: ACRB 13-50, Andre Billups alleging harassment and abusive language.  
Mr. Billups alleges that APD Officer Robert Byers has been harassing him for over a year. He further alleges that Officer Byers was verbally abusive towards him and seized his property without a search warrant. Staff recommends investigation as a harassment and abusive language complaint.
3. Complaint Number: ACRB 13-51, Linda Hinton alleging property room theft, abuse, rape.  
Ms. Hinton filed a complaint alleging property room theft, abuse and rape against the Atlanta Police & Corrections Departments. She did not provide details of any of the incidents. On June 24, 2013, Ms. Hinton was contacted in an effort to ascertain more information concerning her complaint. Ms. Hinton stated that she is bipolar and sometimes her behavior is erratic. She stated that she is not interested in pursuing a complaint against anyone. Staff recommends dismissal.
4. Complaint Number: ACRB 13-52, Rodricus Reachell alleging false arrest.  
Mr. Reachell alleges that on April 19, 2012, he was falsely arrested by APD Officer Elmalik Robeson.

Preliminary investigation revealed that Mr. Reachell's criminal case is pending adjudication in the Fulton County Superior Court and the investigation into the false arrest allegation will depend on its outcome. Therefore, recommend suspension of the investigation pending the adjudication.

5. Complaint Number: ACRB 13-53, Quartez Goodman alleging false arrest and excessive force.  
Mr. Goodman alleges that on June 19, 2013, he was falsely arrested by APD officers. He further alleges that during the incident, the officers physically assaulted him. Preliminary investigation revealed that Mr. Goodman's criminal case is pending adjudication in the Fulton County Superior Court and the investigation into the false arrest allegation will depend on its outcome. Therefore, recommend suspension of the investigation pending the adjudication.
6. Complaint Number: ACRB 13-54, Darius Curney alleging harassment.

Mr. Curney alleges that he is being harassed by the prison officials at the Hancock State Prison. Staff recommends dismissal for lack of jurisdiction.

7. Complaint Number: ACRB 13-55, Robert Lawrence alleging false arrest.

Mr. Lawrence alleges that on June 4, 2013, he was falsely arrested by APD Officer Dawanna Foster.

Preliminary investigation revealed that Mr. Lawrence's criminal case is pending adjudication in the Fulton County Superior Court and the investigation into the false arrest allegation will depend on its outcome. Therefore, recommend suspension of the investigation pending the adjudication.

*It should be noted that **Investigator Robertson** made the following statement, "I just want to note that although we're recommending suspensions, we're still doing preliminary work and still gathering documents."*

*Discussing...*

1. **Johnson:** I don't know if you do this, but, if it's something where you feel as though we should not pursue or further investigate, do you offer suggestions or recommendations for those folks, to the jurisdiction that might likely be associated with their complaint?
2. **Robertson:** The people that contact us via telephone, yes, we do that. Also, we discuss, for instance Mr. Carnegie, who has an issue with Hancock State Prison, we're going to recommend those to the Attorney General's office, and he'll send him a letter letting him know that we referred his complaint there. We have a records manual that we put together, so that we can use it to refer people to various offices or other police departments, their internal affairs department to handle the issue.
3. **Johnson:** If you did do that is it possible to maybe include that into this form? Would that be too much? Just something that shows that we just didn't leave them high and dry or dismiss them.
4. **Robertson:** I can do that. It's noted in the case file that we create but I can put it on there.
5. **Johnson:** Thank you.

Following the discussion, a motion was made by **Bozarth** to approve the June 13<sup>th</sup> report. The motion was seconded by **Hubbard**. No further discussion, the motion was approved by all.

## **REVIEW OF COMPLAINTS: CASE NO. 12-34 UNRAY JONES**

### **A. CASE SUMMARY**

**Chair Bartels** stated that on August 27, 2012, Mr. Unray Jones filed a complaint against Officer Wayne McCalla of the Atlanta Police Department, alleging excessive force. The incident occurred on July 29, 2012. The complaint alleges that Officer McCalla used excessive force when he sprayed the complainant with OC Spray during an arrest. The complainant has also alleged that Officer McCalla used excessive force when he twisted the handcuffs on complainant's wrist causing injury.

*Discussion...*

1. **Price:** I'd like to ask the Lieutenant Webb a question. Do we still have the Neighborhood Justice Center?
2. **Lieutenant Webb:** I know what you're speaking of, but I'm not sure if they still have that.
3. **Price:** I don't know either whether they still have that, but I'd like to make some comments about this. This complaint to me is completely blown of proportion, as far as I'm concerned. Officer responding to stolen vehicle recovery, and stolen cars are put in the computer system. So this officer's responds to a recovery and talks to the lady, who says she wants her car out of the system. Do both of them live at 2317 Sargent Place?
4. **Lively:** No, Ma'am. The victim in the case, the woman, was just staying with the guy, who is a friend of hers for just those two days, and basically he had locked her up in the house but she doesn't live there. According to Mr. Jones, he ran into her after a Hawks game or something like that, and then he uh...
5. **Bartels:** They hooked up basically.
6. **Lively:** Yes, she basically goes over to his house and takes a shower, and then she fell asleep on the couch, and that's when he took or that when he asked for the car and left.
7. **Price:** Okay, my feelings about that is it has nothing to do with whether they were intimate or had a relationship. It's about conduct of the police officer. I really don't think the officer has a right to lock Mr. Jones up, because of the fact that the lady told him that her car was recovered. I think that this was not really a legitimately stolen vehicle. This is somebody who loaned somebody a car, they got mad, and then later wanted to pull it from the computer. But, my main concern is that if he held her prison, that she should've been advised to go and take out a warrant. I just don't think the officer had the right to lock Mr. Jones up based on the female's word only that he locked her up in the house, and she was imprisoned at some point. I had some issues with that. I think it could've been handled a lot better.
8. **Lively:** Actually, Ms. **Price**, Jones actually admitted to the officers that he locked her up for her own good, and he told me he said that to the officers.
9. **Price:** I have no problem with that. I would've had to get a statement from her. Then, I'm going to have her go and serve her out a warrant, because it was just her word. He said he did it, but I just couldn't lock the man up and get into a whole discussion about going to your house and taking off some clothes. There's nothing against the law that I can't stand on my porch in my underwear if I want to. I think if I had been on that call, I could've handled it a whole lot different and therefore a complaint against the officer would have been avoided, and he would not have had that on his record. Because once you tell me that you got your car, I'm satisfied; and you told me this happened two weeks ago or three days ago that he locked you in his house. I would tell them to maybe go downtown and fill out a warrant but I would not have locked him up.
10. **Benson:** I wouldn't have done it.
11. **Bartels:** One thing I was thinking when I was reading through this is did the officer actually have probable cause to arrest him? And if he didn't have probable cause, then it would be excessive force. Even if it would be excessive force and if there was probable cause, but my opinion is it comes on the border line, but you know, probable is not a very high threshold. Probable cause is very low. You know, my opinion is he did have probable cause. I mean it wasn't the strongest case, and if I was the prosecutor I'd probably dismiss the case, but there was some corroboration. I think there's something in the report that there was a window. She said she tried to go through a window and there is a window with a busted screen. So, I can see why the officer, looking at that

- window, could say, 'I believe there is something to this'. You know, I find her credible and the word of one credible witness is really all you need for probable cause.
12. **Bozarth:** Ms. **Price**, my opinion is if we need to, if we make a decision to suggest that the officer did the wrong thing in approaching it, I think we open ourselves up. The situation of what if he had ignored it, he could have been equally questioned for that judgment. So, I think he was in a bit of a bind to determine this. But you are right from a practical point of view. What do you call it, 'justice in the community'? These are domestic situations between people. Maybe common sense would've said to walk away, but on the other hand...
  13. **Price:** I don't think I could've walked away, but I would've had to tell her, 'you gonna have to go down and go to county since this happened a couple of days ago and did not happen in my presence. I have taken your calls and I have from the computer that your car has been recovered. You need to go down and take out a warrant. Or I would have asked if she wants to prosecute.
  14. **Hubbard:** So, once she told him that she wanted to drop the charges and that she wasn't interested in pursuing it, could he have done that...walked away? I know the officer has the discretion. He didn't have to do anything else. Did the officer know that?
  15. **Price:** If she doesn't want to prosecute, then she doesn't want to prosecute.
  16. **Johnson:** Well, I actually had a question for Ruth. Your sole premise for determining whether or not he should've engaged Mr. Unray, is it because the call came in to him as a recovered auto or as stolen vehicle?
  17. **Price:** It came to him as a recovery vehicle, meaning that was placed in the computer, and now she's calling to tell you, 'Take my car out the computer. It's back here now. And when I read this, it says that he borrowed the car from her to go around the corner. So he didn't come back quickly enough, and then she filed a police report. It's gotta come out of the computer, because she can get stopped in her own vehicle if it hasn't been taken out. But that wasn't my issue. My issue was did he have the authority to lock him up, false imprisonment, without her going down and taking a warrant out on him about something that had not happened yesterday and that wasn't happening here in his presence or anything.
  18. **Johnson:** Well, that's my thing. If the gentleman stated at some point in time during the interaction that he did lock her in the house, well I mean, I don't see me being able to allow the officer to say 'Ok, you know, oh well'.
  19. **Price:** Well, I don't think that you can't say that he did it, just because she said it.
  20. **Hubbard:** "So, just because you feel that way about it doesn't mean that the officer necessarily has to do it that way.
  21. **Price:** I said it's discretionary. That was his discretion.
  22. **Bartels:** And I should mention at this point, yeah that it is an excessive force complaint. There are two allegations. He's making that the initial taking into custody when he was pepper sprayed and it's in the Mr. Lively's report, that he was actually hit with an Asp, an expandable baton, but that's not in Mr. Jones's complaint.
  23. **Lively:** Actually sir, he didn't hit her. He pulled it out. He thought the spray didn't have an effect, so that's why he pulled it out.
  24. **Bartels:** I stand corrected on that, and then the second allegation is twisting his wrist. I think we can have a single vote, because it is one case it's one complaint, but there are two specific incidents that are issue. But the recommendation of staff is to not sustain the complaint, because of the force that was necessary to take him into custody to begin with, and second, the review of his medical records from Grady did not indicate any complaints or any treatment given for any injuries to his wrist.

25. **Benson:** I too have a question about whether or not there was probable cause. Because this woman, I believe her name is Benita Chandler, immediately told the officer, 'I want the car taken out of the system. I no longer want to, in other words, press charges' was what she was saying and I believe it's indicated that the officer told her to shut up or stop talking or whatever.
26. **Bartels:** It's what Mr. Jones said not the officer.
27. **Benson:** And not the officer? Okay.
28. **Harrison:** Even the officer questioned Jones, because he said 'I did lock her up.' And that is when probable cause kicked in. He had admitted to a crime.
29. **Benson:** Not necessarily. I'm thinking a little deeper, because whatever Mr. Jones and this woman did, there's now a girlfriend in the house. I don't know if you guys paid attention to the fact, there's now another woman in the house, so maybe that's when she admits 'Yeah, he did lock me up' or 'He did lock me in the house'. But, you know, it's neither here nor there. It is a very weak case. Probable cause was discretionary on the officer's part, but we spend way too many tax dollars on cases that are forced, into court and prosecuted. Even when victims want to withdraw their testimony or their prosecution and they go forward, and they can't prove their cases. So, if this woman wanted to withdraw, I think the officer too should've let this go.
30. **Harrison:** Yeah, I think he was a little over zealous with his approach. What I would like to say for the record would be a good case for mediation if we had a program in place. We can bring the two together and then somehow resolve this one.
31. **Bartels:** So, the recommendation from staff is to not sustain the complaint. Anybody else have anything they want to add or waiting for a vote?
32. **Benson:** There's no way to give Officer McCalla any type of warning or he wouldn't have an understanding of what our viewpoint was on this case unless we sustained the case. So, if we did not sustain, it just goes away.
33. **Reid:** One thing I would just like to remind the Board about the standard is what would be an objectively reasonable officer do in a situation like this, based on policy procedure, experience and practice? And secondly, Ms. **Price** stated one thing about the discretion. We've been thinking about the objectively reasonable officer in a discretionary officer review which is how you would be determining whether the force was excessive or not. I just want to throw that in there.
34. **Benson:** And if we believe that he should have used his discretion or a reasonably objective officer would've used his discretion to not arrest this man, but give him a warning. Then we would agree that excessive force was used, because he did not have to lock up this man.
35. **Harrison:** That'll be tough to prove if he admitted to a crime now. What the cop is saying is that the guy admitted to a crime and then when he admitted, he actually said, "Ok, now you're under arrest", and the guy resisted.
36. **Benson:** My only issue is that the officer had an opportunity, as soon as he arrived, to talk to Ms. Chandler, who told him a male friend had taken her car and returned it and that she wanted the car taken off the system.
37. **Harrison:** And I agree with you at that point. I think you're absolutely right that he should have used better discretion. But now you've got a suspect who actually admits to the crime, and when he admits to the crime what he says is, 'Ok, now you're under arrest'. You have to comply but he didn't comply.
38. **Bartels:** Whether or not it's something that we believe was reasonable to arrest, whether it's something that we personally would've done the same, that's not the issue. That's

not the same issue as whether the officer was within his legal right. I believe he was. I mean it was simple probable cause.

39. **Reid:** Now as Paul (**Bartels**) mentioned earlier, you still are empowered to be able to send letters over to the Chief, highlighting an issue, even though we may not sustain the complaint, but an issue that you would want the police department to follow up on.
40. **Harrison:** So what you're saying is I can still not sustain this and send with it some sort of amendment regarding our concerns?
41. **Reid:** Oh yeah, meaning the letter that goes out highlighting some concerns that you have on the case. You can put that in the letter and at least you can get some kind of information back related to how it potentially could be handled in the future?

Following the lengthy discussion, the **Chair** opened the floor for a motion.

It was moved by **Harrison** to accept the staff's recommendation to assign a finding of not sustain but include in the letter to Chief Turner the board's concerns about whether the officer used his discretion appropriately in this case. The motion was seconded by **Price**. Hearing no further discussion the motion was approved by all.

## PUBLIC COMMENTS

There were no public comments at this meeting.

## ADJOURNMENT

**Chair Bartels** entertained a motion to end the meeting.

**Harrison** moved to adjourn the meeting. The meeting adjourned at 7:58 p.m.

Approved as to form and content,  
Alan Morris  
Board Secretary,  
  
Signature  
Date: August 8, 2013