

APPROVED: May 8, 2014



**ATLANTA CITIZEN REVIEW BOARD
APRIL MEETING MINUTES**

City of Atlanta City Hall
55 Trinity Avenue, S.W., Committee Room One
Atlanta, Georgia 30303
April 10, 2014
6:30 p.m.

The April 2014 meeting was called to order by the *Chair* at 6:35 p.m.

A G E N D A

ROLL CALL

(Eight Members of the Board)

ACTIVE MEMBERS PRESENT

RUTH PRICE <i>(Vice Chair/Price)</i>	MACEO C. WILLIAMS, SR. <i>(Williams)</i>
PAUL BARTELS <i>(Secretary/Bartels)</i>	BILL BOZARTH <i>(Bozarth)</i>
OSA BENSON <i>(Benson)</i>	GERALD SOUDER <i>(Souder)</i>
SHERRY WILLIAMS <i>(Williams)</i>	

ACTIVE MEMBERS ABSENT

WILLIAM HARRISON *(Chair/Harrison)*
ALAN MORRIS *(Morris)*

VACANT BOARD SEATS

Office of the Mayor *(vacant 8 months)*
Atlanta Business League *(vacant 22 months)*

STAFF ATTENDEES

SHEENA ROBERTSON *(Robertson)*, Lead Investigator; **MYOLA SMITH** *(Smith)*, Transcriber; **AKUA COPPOCK**, Associate City Attorney, **SAUL SCHULTZ**, COA Department of Law, Appointed Counsel for ACRB, **LIEUTENANT WEBB**

*It should be noted that **Chair William Harrison** was absent due to illness. In his absence **Vice Chair Ruth Price** presided over the meeting.*

Vice Chair Price welcomed citizens announcing that public comments would be heard later in the agenda. The public is required to sign up to speak and limit comments to three (3) minutes. The *Vice Chair* also welcomed Lieutenant J. Webb of the APD Office of Professional Standards.

APPROVAL OF MINUTES OF THE LAST MEETING ON MARCH 13, 2014

The *Vice Chair* directed the Board's attention to the minutes for March 13, 2014. The floor was opened for discussion and corrections to the minutes. One correction was made to the minutes. *Price* explained that the heading of the draft copies issued read December and should be corrected to the month of March.

Bartels moved to accept the minutes. *Williams* seconded. Hearing no further discussion, the motion was approved by all.

INTAKE REPORT FOR MARCH 2014

A total of six (6) complaints were received for the month of February. *Investigator Robertson* reported the following:

1. Complaint Number: **ACRB No. 14-017, Tyler Beim** alleging Verbal Abuse
Mr. Beim alleges that on March 11, 2014, APD Officer Rollins was verbally abusive towards him during a traffic stop. *Recommend investigation as an abusive language complaint.*
2. Complaint Number: **ACRB No.14-018, Erica Tucker** alleging False Arrest and Excessive Force
Ms. Tucker alleges that on February 7, 2014, APD Officer Denis Joseph falsely arrested her. She further alleges that during the incident, Officer Joseph slammed her head into the wall of a house. Recommend investigation as an excessive force and possibly a false arrest complaint. Preliminary investigation revealed that Ms. Tucker'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.*
3. Complaint Number: **ACRB No. 14-019, Raymond Washington** alleging Harassment
Mr. Washington alleges that he is being harassed by Zone 5 APD officers. He claims that they are following him and falsely telling people that he is a registered sex offender. *Recommend investigation as a harassment complaint.*
4. Complaint Number: **ACRB No. 14-020, Linda Simmons** alleging Harassment
Ms. Simons alleges that on September 26, 2013, while waiting for a standby flight at the Hartsfield-Jackson International Airport, APD Officer Willie Arnold harassed her by ordering her to leave the airport. She said he accused her of being homeless and refused to allow her to use the bathroom. Ms. Simmons stated that she is a minister, and was highly insulted by Officer Arnold and his behavior. *Recommend investigation as a harassment complaint.*
5. Complaint Number: **ACRB No. 14-021, Otavious Bostic** alleging False Arrest
Mr. Bostic alleges that on March 24, 2014, he was falsely arrested by APD officers. Awaiting Mr. Bostic's signed complaint. Preliminary investigation revealed that Mr. Bostic's criminal case is still pending adjudication in the court. *If signed complaint is received within the next few weeks, then recommend suspension of the investigation pending the adjudication. However, if the signed complaint is not received then recommend dismissal.*
6. Complaint Number: **ACRB No. 14-022, Gracie Varner** alleging Excessive Force
Ms. Varner alleges that on March 18, 2014, APD Officer Ian Mayfield kicked her 19 year old son Jaquavious Varner in the head while on the ground and in handcuffs, causing him to sustain a fractured nose. *Recommend investigation as an excessive force complaint.*

Discussion Summary:

Some questions were directed at *Investigator Robertson* regarding complaint #14-019, Raymond Washington and complaint #14-022.

In regards to complaint #14-019 and the correct identification of the officers involved, *Robertson* explained that she had some preliminary information that included some of the officers' names. She said, "Once I start the investigation, hopefully, I'll be able to identify those officers in the interview." Regarding whether or not Mr. Washington is a register sex offender, *Robertson* said that he has provided documentation that he's been off the list since 2012, and provided court documentation since March of 2012. She also indicated that he's a lower level 1 complaint, meaning it qualifies him to be able to apply to the court to be removed after serving a certain amount of time. *Bartels* added that once someone is convicted of a sex offense and released, they have to be evaluated by the Classification Board. "There are three levels of classification. Level one is the least likely to reoffend."

Regarding complaint #14-022, *Benson*, asked if Jaquavious Varner, assumed to be an adult, will come in to make the complaint or if his mother will go forward with the complaint. *Robertson*: "Yes, I'm going to get a signed complaint from him. He's currently in Fulton County Jail, so we're going there together." *Bartels* asked *Robertson* if there are any problems getting into the jail to see people to interview them? *Robertson* replied no.

Following the discussion, Williams moved to accept the Intake Report as written. *Benson* seconded. The motion was approved by all.

REVIEW OF COMPLAINTS

CASE NO. 13-55, ROBERT LAWRENCE

A. FALSE ARREST ALLEGATION SUMMARY:

Mr. Lawrence filed arrest report against APD Officer Dawana Foster, stemming from an incident that occurred on June 4, 2013, involving his brother Eddie Lawrence. He alleged that Officer Foster lacked probable cause to arrest and charged him with aggravated assault. Mr. Lawrence denied striking his brother, and stated when Officer Foster arrested him; he did not ask him any questions. Officer Foster contends that the arrest was justified because Mr. Lawrence's brother told her that he had been struck by Mr. Lawrence and showed her the injuries that he had sustained on his arm as a result of being stuck. APD records show that Officer Foster was dispatched to the incident location several times that day to investigate reports of a domestic dispute. On one of those occasions, Mr. Lawrence's brother reported to 9-1-1 that his brother had hit him in the face with a brick. Mr. Lawrence's brother also told the ACRB investigator that he called the police and reported that his brother had struck him. According to the Fulton County Superior Court records, the reason Mr. Lawrence was not prosecuted concerning this matter was because the victim, his brother Eddie, could not be located and not for the lack of probable cause.

Therefore, based on the information, ACRB staff recommends that the allegation of **false arrest** against Officer Dawana Foster, be assigned a finding of **exonerated**. The investigation established that the alleged acts occurred, but was justified legal or within the departmental policy.

Discussion...

1. There was a question raised about exonerated verses not sustained. **Bartels** said when a recommendation is exonerated as opposed to not sustained, not sustained does not clear what happened. When it's exonerated, it's clear what happened. He further says that no one is disputing that the officer did arrest him, but staff's finding is that they believe it was justified, and that's how it's different from not sustained.
2. **Price** commented that she agreed that the officer had followed the procedure and did what she was asked to do.
3. **Bozarth** questioned the time frame dating back to June 2013. He asked if there was a delay for some reason.
4. **Robertson**: "We had to wait until the adjudication of his case. There's a copy of the dispositions in the case."
5. **Bartels** stated that being familiar with the Fulton County Court System, Mr. Lawrence was charged with aggravated assault, which is considered a complex case. "If it's a complex case as for aggravated assault that can take a long time."
6. **Bozarth** asked if he was in jail the entire time and if the investigation revealed why he didn't talk to the officer and more about his side of the story.
7. **Robertson** said, "Yes, he was in jail the entire time. The investigation was initially assigned to former ACRB Investigator Kenneth Lively. Investigator Lively interviewed Mr. Lawrence and according to Investigator Lively, Mr. Lawrence told him that the officer never asked him about his side of the story. Officer Foster's indicated that she did try to ask him his side of the story twice; once, when she first apprehended him, and second, when he was transported to jail."
8. **Price** added that family cases tend to change their mind, and normally will not prosecute their loved ones.
9. **Bartels** followed, saying as a staff note, an officer can arrest, if the officer has probable cause to believe that an act of family violence has been committed. They can go on hearsay or he-said-she-said, and because they're brothers and live in the same household, they do qualify as domestic violence or the family violence act.
10. **Bozarth** said that because accounts of what happened conflict, the Board should consider a not sustained verdict for that reason.

Hearing no further discussion, **Souder** made a motion to support staff's recommendation of **exoneration**. **Bartels** seconded. Motion was approved with **Benson**, **Bozarth**, and **Williams** opposing.

CASE NO. 13-85, MICHEAL BELL

A. EXCESSIVE FORCE ALLEGATION SUMMARY:

Mr. Bell filed an excessive force and false arrest complaint against Atlanta Police Officer Micheal McEckron from a traffic stop that occurred on September 19, 2013. Mr. Bell alleges that Officer McEckron engaged in excessive force when he grabbed his left arm, forced it behind his back, and slammed him against the patrol car. Officer McEckron denies this allegation, and contends that he merely took Mr. Bell's left arm, placed it behind his back, and handcuffed him. The footage from Officer McEckron's dashboard camera

obtained from his patrol car, corroborated the officer's claim. Furthermore, Mr. Bell did not present any proof that he sought any medical help or suffered any injuries as a result of this alleged incident.

Therefore, ACRB staff recommends the allegation of excessive force against Officer Micheal McEckron be assigned a finding of **unfounded**. This investigation established that officer did not commit the alleged act of misconduct.

B. FALSE ARREST ALLEGATION SUMMARY:

Mr. Bell alleges that Officer McEckron did not have probable cause to arrest him. As previously indicated, Mr. Bell was charged with violating O.C.G.A. §40-6-96, "Pedestrians on or along the roadway" and disorderly conducted (obstruction). Mr. Bell stated that when he exited his vehicle, he was merely trying to ask the officer some questions about the citation he had been issued. Officer McEckron contends that it was justified, because Mr. Bell was standing in the roadway obstructing traffic, and refused his command to get back in the vehicle.

Based on the testimonial and documented evidence obtained through the course of this investigation, there is insufficient evidence that conclude that Mr. Bell's arrest was not justified. Mr. Bell admits to getting out of his vehicle to address Officer McEckron, which is also shown in the video footage. The footage also shows vehicles attempting to maneuver past Mr. Bell, in order to get by. Furthermore, besides Mr. Bell and Officer McEckron, there were no other witnesses to this incident. The fact that the Atlanta Municipal Court dismissed Mr. Bell's case does not necessarily mean that the officer lacked probable cause to arrest him. Therefore, the ACRB staff recommends that the allegation of false arrest against Officer McEckron be assigned **not sustained**. There is insufficient evidence to conclude that the officer committed the alleged act of misconduct.

Regarding Mr. Bell's, allegation that Officer McEckron was unprofessional when he made comments, such as, "He's a veteran, blah blah blah" when he was speaking to his superior referring to Mr. Bell. During his ACRB interview, Officer McEckron stated that he probably did make that statement. Officer McEckron's comment is in violation of violation of APDSOP2010, Section 4, 2 through 1, which states that the employee shall be civil, orderly and courteous to the public, co-workers and supervisors, and shall not use course, insensitive, violation or profane language. The Board may want to refer this matter to the APD for further investigations.

Discussion...

1. **Bartels** asked for clarity on what Officer McEckron initially charged Mr. Bell with after the arrest verses what he was charged with in the court because it looked like the officer's report says Mr. Bell was charged with "obstruction of an officer and a pedestrian walking in roadway. He said, "But then the court records show that in addition to the pedestrian in the roadway, he was charged in court with improper turn and disorderly conduct, and then something happened with the obstruction charge."
2. **Robertson** said he was stopped for an improper turn, which was clearly shown from watching the dash cam and that he had made a right turn from the far left lane. Mr. Bell used his turn signal but the video show that he's actually out in the roadway.
3. **Bartels**: "With the obstruct charge, is there any point where he's struggling with the officer or refusing to obey?"

4. **Robertson** said that they are out of view of the camera and could not really see what happens at that point, or hear what was going on. The next time she was able to see more on the video is when Mr. Bell was arrested.
5. **Bozarth** commented that he believed that Mr. Bell directly challenged the officer, giving the officer no choice but to restrain him. He indicated that he agrees with staff's recommendation of not sustained.

Bozarth moved to accept staff's recommendation on the allegation of false arrest of **not sustained** on false arrest. **Williams** seconded. Hearing no discussion the motion was approved by all.

ADDITIONAL DISCIPLINE RECOMMENDATION BY THE BOARD

It was recommended that a notation be forwarded to the Office of Professional Standards for further investigation into the complaint regarding Officer McEckron's comments, "He says he's a veteran, blah blah blah" as being not civil, orderly and courteous to the public.

Bartels motioned to accept staff's recommendation. **Benson** seconded. Motion was approved.

OLD BUSINESS

Bartels reported on the Policy Committee meeting recently held to review the by-laws. The meeting was attended by **Bartels**, **Price** and **Reid**. The committee discussed making a few amendments. According to the bylaws, any proposed changes cannot be voted on at a meeting, until members have had at least one month to review them. **Bartels** suggested that rather than discussing them tonight, they could be distributed to each member for review and discussion at the next meeting.

Williams, representing the Community Outreach Committee, reported that he attended the Georgia State Legislature, assisting "Able" Mable Thomas dispersing tri-fold, newsletters, the annual reports, and pens to all 180 Georgia House Representatives on the general assembly floor. **Williams** said, "A table consisting of fact sheets and complaint forms and other basics were set up at the general assembly." **Williams** also reported that The Dream Will Never Die-Strategies to End the New Jim Crow event will be held on the 28th in Atlanta.

Williams reported that the Outreach Committee is also proposing changes to the ACRB Bylaws relating to the removal of board members and how to participate in community outreach activities. Each member received a copy of the proposed amendment, and like the Policy Committee, he is also asking the members of the board to ponder and review them over the next thirty days, and be ready to discuss at the next board meeting.

NEW BUSINESS

- A. **Williams** distributed information pertaining to the Open Meetings / Georgia Sunshine Laws. He read a couple of quotes from the material as it pertained to concerns and questions at the last Board meeting by Paul Bartels. "The law applies to nearly every group that performs any function in a government entity meaning public officials may not exclude the public

from fact finding, and purely deliberative sessions, simply because no final action had been taken or anticipated. Courts have upheld that many meetings relating to policy or official business must be open to the public.” “The public must be given full access to all open meetings, and make video or audio recordings of all open meetings.” “Any official action of any type taken at a meeting, which is not open is invalid, and may be set aside if an action is required promptly.”

B. APD Correspondence: *Price* directed the Board to the “Correspondence” from the police department that was provided in the board packets. *Price* announced that she has inquired of *Director Reid* as to the number of findings that have been accepted by the Atlanta Police Department, and how they ascertain their conclusions. She reported that according to *Director Reid*, the information will be in the next quarterly report. She indicated that the number is probably going to be high. *Williams* expressed his appreciation for the Office of Professionals Standards and new leader, Major Valerie Dalton for agreeing with the Board’s recommendation. *Bartels* remarked that *Director Reid’s* is also following up with OPS on cases where they were in disagreement with the Board.

C. Board Attorney Schultz thanked *Williams* for compiling material on the Open Meeting Act. He stated there has been a heightened interest in the Open Meetings Act, in part because the Attorney General, who places an emphasis on making sure that government is inclined with the Open Meetings Act, due to conflicts in the recent past involving City Council holding briefing meetings in a conference room. There had been public complaints about the meetings, because the public felt that things were going on that they weren’t privy to. Based on interest from the Law Department to meet compliance across the board, the briefings are now held in this room (Committee Room 1) and the public is invited again. A discussion ensued regarding open meetings and subcommittees. *Schultz* said that at the committee briefing, there’s generally not a quorum. Most of the committees have six or seven members. It’s rare to have more than two or three council members in a briefing. The City has taken a position that they’d want to keep meetings open, and comply with Open Meetings Act, whether there’s a quorum there or not. The quorum is five, irrespective of the number of members on the Board. The City code requires only five members to constitute a quorum. He suggested creating a process on how the Board will form its subcommittee within the Board’s larger group, and set it in the bylaws, because there’s nothing in the city code citing it. A standing committee, a permanent committee or an anti-committee with short life spans, would still be advantageous to put in the bylaws, and provide a process whereby the subcommittee can be created. All subcommittees meetings will be subject to open meetings.

Bartels asked hypothetically, if there’s a committee of three people who share ideas and discussion topic through email, does it have to be open to the public. *Attorney Schultz* responded, “No, I don’t think so. I mean the ultimate question might be, well first of all, someone’s going to have to complain about it, but ultimately, the question I think would be are you doing that to avoid meeting, or are you just doing that because it’s convenient. It’s just a matter of acting in a reasonable way. If you want to have a full discussion about a topic or important issues that the committee’s going to consider, it’s probably better to have it in a meeting setting” *Smith* said, “If you’re going to have an open meeting, we will need to let the public know. That means sending notice to the Municipal Clerk’s Office so that they can post a public notice. An advanced notice of at least twenty-four hours is required

but if you want to engage the communities, a week would be better. So keep in that in mind, the next time you plan to schedule an impromptu meeting.”

D. Price made it known how pleased she was to see that the Board was collecting data and that reports are being prepared to share with the police. “The police department can use the gathered data in many ways for example training issues and spotting patterns.”

Price also expressed her concern about the Atlanta Business League’s failure to appoint someone to the Board in over 21 months and the Mayor’s Office has not appointing anyone in eight months. **Price** commented that the vacancies should be filled or the seats need to be removed and replaced and it is her hope that the Board will be broadened with younger aged prospects.

PUBLIC COMMENTS:

Let the record reflect that there were no public comments from the audience.

ADJOURNMENT

The **Chair** entertained a motion to end the meeting. It was moved by **Williams** to adjourn the meeting. **Bartels** seconded. The meeting adjourned at 7:45 p.m.

This is to certify that the minutes for ACRB Meeting held on April 10, 2014 were officially approved by the Board on May 8, 2014.



PAUL BARTELS
Board Secretary