

**Approved: May 14, 2015**



**ATLANTA CITIZEN REVIEW BOARD  
MINUTES OF THE MEETING**

April 9, 2015  
City of Atlanta City Hall  
55 Trinity Avenue, S.W., Committee Room One  
Atlanta, Georgia 30303  
6:30 p.m.

The April 9, 2015 meeting was called to order by ***Vice Chair Bozarth*** at 6:30 p.m. ***Bozarth*** presided due to the absence of ***Chair Harrison*** who was representing ACRB at a Community Public Safety Meeting.

**AGENDA**

**ROLL CALL**

*(Eleven Members of the Board)*

**ACTIVE MEMBERS PRESENT**

**PAUL BARTELS** *(Secretary/Bartels)*  
**BILL BOZARTH** *(Vice-Chair Bozarth)*  
**ALAN MORRIS** *(Morris)*

**RUTH PRICE** *(Price)*  
**GERALD SOUDER** *(Souder)*  
**SHERRY WILLIAMS** *(S. Williams)*

**ACTIVE MEMBERS ABSENT**

**WILLIAM HARRISON** *(Chair/Harrison) – Excused / Notification*  
**MACEO C. WILLIAMS, SR.** *(M. Williams) – Excused / Notification*

**VACANT BOARD SEATS**

**Office of the Mayor** *(vacant 1 year and 8 months)*  
**Atlanta Business League** *(vacant 2 years and 10 months)*  
**Gate City Bar Association** *(vacant 8 months)*

**STAFF ATTENDEES**

**SHEENA ROBERTSON**, Investigation Manager *(Investigator Robertson)*; **ROBIN LOLAR**, Investigator, Sr., *(Investigator Lolar)*; **BRIAN FLEMING**, Investigator, Sr., *(Investigator Fleming)*; **CHARLES CURRY**, Community Outreach Specialist *(Curry)*; **MYOLA SMITH**, Project Manager and Minutes Transcriber *(Smith)*; **VERONICA HOFFLER**, City Attorney Assigned to ACRB, COA Law Department.

**APPROVAL OF MINUTES OF THE LAST MEETING, MARCH 12, 2015**

**Vice-Chair Bozarth** directed the Board's attention to the minutes for March 12, 2015. The floor was opened for discussion and corrections to the minutes.

**Investigator Lolar** corrected the officer's name on page 11 of the minutes. All reference to a Sgt. Jason Rhine should be corrected to read Sgt. Jason **Ryan**.

**Morris** moved to adopt the minutes with noted correction. **Bartels** seconded. Hearing no further corrections or discussion, the motion was approved as noted with one abstention from **S. Williams** indicating that she had not reviewed the minutes.

It should be noted that **Vice-Chair Bozarth** introduced Ms. Veronica L Hoffler, Assistant City Attorney, Law Department, city of Atlanta. Ms. Hoffler has been assigned by the City Attorney to assist ACRB in its legal matters. The position was formally held by Saul Schults who recently retired.

## EXECUTIVE DIRECTOR'S REPORT

ACRB staff reported in the absence of **Director Reid**:

### A. COMMUNITY OUTREACH

**Smith** asked the Board to direct their attention to the Outreach information that was included in each board packet. She said, "Please refer to the black folder which contains a list of reach outreach activities and events, as well as, a map of where new billboards will appear around the city promoting awareness. They are electronic billboards, actually digital posters. They run in a loop or a rooming fashion. In other words, these messages will move from point to point, billboard to billboard.

**Smith** further reported that this evening Charles **Curry** and our Board **Chair** are attending a community forum. It is a public safety hearing hosted by APD with elected officials in attendance including the Mayor, DA Paul Howard, some members of Atlanta City council and others. The **Chair** plans to address the issue, at the forum, of the ACRB not being included when these types of public safety gatherings are held. He has indicated that it is important for ACRB to share in the dialog specifically, when it relates to matters that involve law enforcement officers and how citizens are treated.

Charles **Curry** sent everyone a calendar earlier this week. Did everyone receive it? Some of the events, of course, are only there for your information, but the other events such as at the libraries, are there to encourage you to get involve. You may have heard Charles talk about forming a partnership with the Central Library, and that has come together. The story hour or reading time at the library for kids that ACRB has actively participating in has been well received. By the way, if you have some time, you may want to get involved in reading program. It's fun and simple. You read right from the activity book to the kids. We will certainly welcome you to do that and besides being a lot fun, it is also very rewarding. They are really neat kids.

In response to some discussion and a few questions **Smith** announced that the billboard started going up yesterday, April 8 running through April altogether about 12 weeks.

### B. ORDINANCE CHANGES UPDATE

**Smith** provided the Board with the most recent information regarding the proposed ordinance changes. She reported that she and Director **Reid** met recently with Councilmember Ivory Young and Councilmember **Dickens**. She said, "They were very receptive to the proposed changes to the ordinance. Young is one of the original authors of the legislation. His support is invaluable and hopefully more councilmembers will sign off on the legislation in support of the proposed changes. Our meeting with Councilmember Dickens also went very well and we have his support. Our hope is by the time the legislation hits the floor, the majority of the council will be fully aware and supportive of the changes so that the legislation is approved.

Right now, the law department is taking a second look and will probably propose a few minor changes and make some suggestion.

C. ACRB 2014 ANNUAL REPORT

**Robertson** announced that the reports were scheduled to be distributed at tonight's meeting; however, the books had not been delivered from the printer, yet. **Robertson** stated, "We were expecting them to come in today, but we will get them, probably, Monday."

In response to questions from the board, **Robertson** indicated that the annual reports covers a period of one year, 2014, starting January 1<sup>st</sup> through December 31, 2014. "When the reports come in, we will mail each member a few copies. In my opinion it is one of our best written reports to date."

## INTAKE REPORT FOR THE MONTH OF MARCH 2015

Investigation Manager **Robertson** reported that for the month of March, the ACRB received 15 complaints, and 12 of those complaints, staff is requesting a dismissal.

The following is a breakdown of the ACRB complaints:

- Complaints that fall outside ACRB's jurisdiction and subsequently recommended for dismissal ACRB complaints numbers 15-038, 15-039, 15-040, 15-041, 15-042, 15-043, 15-044, 15-045, 15-046, 15-052
- Complaints for dismissal for lack of a signed complaint: ACRB 15-051
- Complaints recommended for investigation:
  - ACRB 15-047 (Excessive Force). *Special Note: This case is pending a signed complaint form. If received within the next few weeks it will be investigated as an excessive force complaint. If not, a dismissal will be recommended.*
  - ACRB 15-048 (False Arrest & Excessive Force) *Special Note: This case is pending a signed complaint form. If received within the next few weeks it will be investigated as an excessive force complaint. If not, a dismissal will be recommended.*
  - ACRB 15-050 (False Arrest) *Special Note: This case is pending a signed complaint form. If received within the next few weeks it will be investigated as an excessive force complaint. If not, a dismissal will be recommended.*

It was moved by **Bartels** to accept the staff's recommendation regarding the March 2015 Intake Report of complaints. **S. Williams** seconded the motion. Hearing no further discussion, the motion was approved without objection.

## COMPLAINTS REVIEW:

A. ACRB CASE NO. 14-090, FALSE ARREST

*Case Investigator: Sheena Robertson*

The male complainant alleges that Sgt. Robert Daniels and Officer Brian Carswell falsely arrested him. *Case Summary:* The Complainant was sitting in an illegally parked car near Farrington and Martin Street in Southeast Atlanta. He was approached by the officers who said the Complainant smelled of marijuana. The officers subsequently conducted a body search that resulted in his arrest. Eventually, the case was dismissed in court due to evidentiary issues. Mr. Bryant arrest was based on the marijuana that was retrieved from his buttocks during a search conducted by Sgt. Daniels in a convenience store restroom. A pat down pursuant to Mr. Bryant's verbal consent of his outer clothing had already been done prior to Sgt.

Daniels arrival. Nothing illegal had been detected. Although Mr. Bryant consented to Sgt. Daniels searching him a second time his consent did not extend to repositioning his outer clothing and looking and reaching inside his underwear. Therefore since the drugs were found as a result what we construe to being an illegal search there is no probable cause to arrest Mr. Bryant. Therefore, ACRB staff recommends the allegation of false arrest against Sgt. Robert Daniels and Officer Brian Carswell (?) is signed a filing of sustained. Which would mean the investigator established that there is sufficient evidence that the officers committed the alleged act of misconduct.

*Discussion...*

1. **Bartels:** *It looked like the thing that started and set this whole chain of events in motion was that he was parked in a no parking zone. Was that, just like, the states private property that was just marked improperly or was it on a public street and it had an official sign?*
2. **Robertson:** *It was on a public street.*
3. **Bozarth:** *Indicated that he drove by the location and noticed that there was a No Parking sign. He said, "One thought that I had was the search was conducted by the Sergeant in this case, Sgt. Daniels. The officer that initially approached the Complainant is the other one Brian Carswell. May I recommend that we consider each officer separately since there are two charges? There may be a difference in how we want to handle one versus the other. So let's talk about it in that way if we might."*
4. **Morris:** *I have a question. The Complainant consented to a second search was he consenting to a different kind of search, I don't understand the second search?*
5. **Robertson:** *When he was searched the first time, the Sgt. wasn't there. When the Sgt. came on the scene, he asked the Complainant if he could be searched. The Complainant said, yes. The Sgt. said he was going to make him sign a search form before he searched him; however, the Complainant thought he was going to be searched in the same manner as the first search, a pat down and not being taken him to the bathroom.*
6. **Bartels:** *Although he did sign a statement, the signed consent form for the second search just says conducted a complete search of the clothing, vehicle, and the premises. I think most people would understand that to mean patting down, or looking into my pockets. I don't think most people would think that means sticking your hands inside somebodys underwear and in between your buttocks. For the record, what the Sergeant did exceeded the scope of the consent that he gave for the second search.*
7. **Morris:** *That was the reason for my question...was it clear that this was a different kind of search or not clear? According to this, it is not clear.*
8. **Price:** *This came around when we had Red Dogs. These officers go too far. I don't think there was anything done that should have made them humiliate that man the way they did. I think the consent should have been more detailed.*
9. **S. Williams:** *My question is about standard procedure. They stopped him initially and they say they smelled marijuana and they searched the car (with drivers consent), so what issue is that now?*
10. **Bartels:** *I would say U.S. Supreme Court and Georgia Supreme Court they both ruled that, by itself, that if an officer claim to smell marijuana that is probable cause to search the car. But if they search the car and did not find anything; they pat him down and they did not find anything at that point, he should have been let go because they did not have reasonable suspicion to retain him, so that's another way of looking at it.*

Following the discussion the Board considered the complaint against Sgt. Robert Daniels who is the officer that conducted the body search.

It was moved by **Bartels** to accept staff's recommendation to **sustain** against Sgt. Daniels. **S. Williams** seconded the motion. Hearing no further discussion, the motion was unanimously approved.

The Board considered the complaint against Officer Brian Carswell who was on the scene and initiated the initial stop and is the arresting officer on record.

*Discussion...*

1. **Vice Chair Bozarth:** *So the question I would pose to the board is since he's not the one that conducted the search should he receive the same admonishment that we are recommending for the other officer?*
2. **Bartels:** *Well I think that's a good question because their roles were a little bit different, but we're not really considering discipline, yet. We're just looking at whether it's sustained against them or not. I would vote to sustain against Officer Carswell, as well, he is listed as the arresting officer. Also, the report says he booked the marijuana into evidence. I would say that both he and Sgt. Daniels played active roles in the arrest.*

Following the discussion, **Bartels** moved to accept staff's recommendation to **sustain** the complaint against Officer Carswell. **S. Williams** seconded the motion. Calling for the vote the motion was approved with one vote against the motion (**Bozarth**).

#### Discipline Recommendation for Sgt. Robert Daniels:

Sgt. Daniels has been with the department since June of 1989. He has been a Sergeant since 2002. Within the past five years, he has had five complaints:

- ✓ Failure to timely complete a use of force report. It was sustained and he received an oral admonishment.
- ✓ A citizen filed a complaint for being discourteous and calling her a liar. That was sustained and he received a written reprimand and an oral admonishment.
- ✓ Violation of policy when interacting with CI
- ✓ Wasn't present when the investigator did a payout to one of the CI's. As part of the APD SOP, a supervisor has to be present. *(The case is still pending.)*
- ✓ False arrest complaint *(currently being considered tonight)*

The discipline falls into a category 'A'. The range would be an oral or written admonishment or counseling, or something like that. However, the Board can go outside the grid.

*Discussion...*

1. **Bartels:** *One thought that I have is, if we are looking at instances of police behavior it seems like there are two separate issues. One issue is... was this within the departmental policy or procedure? The other is this really appropriate? And sometimes there are different answers to that, sometimes the police officer will do what's within the guidelines, but it's still not an appropriate outcome. Just from looking at a lot of these cases it seems to me that a complete strip search of somebody it seems to be routine, but for an officer, especially, looking to make an arrest on drugs even a small amount of marijuana, is that really something that should be happening. Is this a routine matter?*
2. **Robertson-** *Of course you all can go outside of the grid you don't have to, you know, even though this is a category A, you can go outside of that, APD grid.*
3. **Price-** *This young man does not seem like he is ready for a supervisor position. I recommend at least training. He has five complaints and that is quite a bit as far as I am concerned. He has had enough oral admonishments and reprimands and it's time to do something else that is disciplinary.*
4. **Bozarth:** *I can see the other side of the coin as I don't disagree with Ms. Price, you know, we ask the police officers to try to keep drugs and other crimes off the streets, but there is no question that this man had broken the law, even though we realize its small amounts of marijuana. It's often tolerated and there's even places now where it's legal, but it's not legal in Atlanta.*
5. **Bartels:** *The other thought I would say is I would at least want to vote for a written reprimand. If not a suspension. I would not be opposed to the idea of additional training, but my thought on that is that if this seems to be a common and accepted pattern amongst police officers, you know, doing strip searches and body searches for small amounts of marijuana, what additional training is going to accomplish.*
6. **S. Williams:** *Who said, nobody said it was acceptable to do a strip search.*

7. **Bartels:** *Well it seems to be a common practice.*
8. **Souder:** *The only thing I was thinking is because in another case it's cited in here because it says they did a cavity search or a strip search it has to be done at a jail or correctional facility and he did this in a bathroom.*
9. **Bartels:** *I think that would support, you know, why I thought that's it an illegal search. This is why it's a false arrest.*
10. **Bozarth:** *And the case was thrown out by the solicitor?*
11. **Robertson:** *Yes.*

Following the discussion, **S. Williams** moved to recommend one day suspension and training on the proper procedures and protocol for doing searches in the field. **Morris** seconded the motion. The vote was called and the motion was unanimously approved.

Discipline Recommendation for Officer Brian Carswell:

**Robertson** reported, "Officer Carswell has been with the department since September 2006 and he has had five complaints. Two of those complaints involve vehicle accidents and one was a firearm discharge. Actually that was a case that we, also, have which was Kelly Rodriguez was involved. It was for shooting of a dog and he was exonerated. The other complaint he had was a false arrest, however, he was exonerated for that, it was a domestic dispute. The other case, which is outstanding, is this one we are discussing tonight. This fall under category A for oral admonishment, written reprimand and training."

*Discussion...*

1. **Bozarth:** *I believe my opinion the behavior of Sgt. Daniels was more egregious than that of Officer Carswell, so I think we should have a differentiated level of discipline.*
2. **Bartels:** *I agree with that. Not only because Sgt. Daniels is a Sergeant, but, also, he was the one that actually conducted the search.*
3. **Bozarth:** *I say we recommend oral admonishment for that part of it. If the other officer needed training on the procedure then we should suggest that for this officer, as well.*

Following the discussion **Bartels** indicated that he thought that any false arrest really should be at least a written reprimand. Because I try to think, you know what somebody who is falsely arrested goes through. They have to go to jail; they have to get bailed out. Even if the case is dismissed, you know, a lot of people got to stopped and think about what it's like to be on the inside of a jail. Have to post bond, have to deal with that on your record. I think, you know, I would at least ask for a written reprimand and training on when and how to conduct a search. So I'll make that a motion. **S. Williams** seconded.

*Discussion...*

1. **Bozarth:** *Before we vote let me just register that I think this particular complainant did commit the crime (unclear) the sort of crime that maybe shouldn't be enforced that strongly, but he approached him, he admitted smoking marijuana, so as to say it's a false arrest, really in this case. There's a lot of times when we have seen cases where officers arrest people they do go through the trauma of going to jail and having to get out. This fellow is not in the innocent category in my opinion, therefore I wouldn't fill the same way you did.*
2. **S. Williams:** *I hear what you are saying but if we are going to respect the people who are protecting us then personally, I expect them to follow procedure, and the reason why there is a procedure is so that people won't be taken advantage of. I'm all for locking up the crooks, I want them to do that but I think that if there is no standard there is no respect.*
3. **Bartels:** *The law applies to everybody and the constitution protects everybody. So it isn't there only to protect people who have not committed a crime, well who amongst us have never committed a crime?*

Following the discussion, the vote was called. The motion was approved with two voting against it (**Bozarth** and **Souder**).

## B. ACRB CASE NO. 14-105, FALSE IMPRISONMENT

*Robin Lolar, Case Investigator*

*Case Summary:* The male complainant alleges that he was falsely imprisoned by Officer Mauricio Castro. The circumstances are that the Complainant was driving around the neighborhood in Southwest Atlanta looking for his cousin. Officer Castro observed him driving around and the Complainant left the neighborhood on University Drive going back towards the freeway at that point he was stopped by Officer Castro. During the stop the Complainant stated that Officer Castro asked him why he was driving around the neighborhood implying he was looking for a prostitute. The Complainant told Officer Castro he was looking for his cousin. It was later substantiated by the investigator that his aunt did live in the neighborhood. The Complainant discovered when he was asked for his license that he did not have his license on his person. So Officer Castro issued a citation for not having the license with no other violation. He was then released to drive away. Later when he produced the license that case was dismissed. So he never suffered any consequences from the citation he received. What Mrs. Lolar has told us here is that an officer may conduct an investigative stop only if he has reasonable articulable suspicion that the person has been or is about to be engage in criminal activity. She has concluded there is no evidence that the Complainant was engaged or about to engage in criminal activity. Officer Castro could not articulate his reason for initiating the stop on the Complainant. He didn't remember the incident it was long enough, ago, that it seemed to have gone out of his memory. The only reason the area is known for people driving around looking for prostitutes. Staff recommends that the allegation of false imprisonment against Officer Mauricio Castro be **sustained** and that the investigation established that there is sufficient evidence that the officer committed the alleged act of misconduct.

### *Discussion...*

1. **Bartels-** *I agree with the recommendation and I think you did a good job of stating what the law is and if you look at the line of court decisions, that say, what constitutes reasonable suspicions to detain somebody-presence in a high crime area can be one factor that contributes to that, but it can't be...there has to be something in addition to that. Like a hand-to-hand transaction, you know, running away when you see the police or something like that. And there was nothing of that nature here. I would, also, add that, if you ask some police officers about any part of Southwest Atlanta, they would probably describe the whole neighborhood as high crime. I've had officers basically say the whole city of Atlanta itself is a high crime area. So I think this should be sustained.*
2. **Ms. Price-** *I think it should be sustained. Just because it's known where there are prostitutes, you didn't see any. You didn't actually report that you noticed them, girls, and women of that nature in the area.*
3. **Bozarth:** *Just to play devil's advocate, a little bit, we certainly look for our officers to try the maintain quality of life in our neighborhoods and prostitutes on the street in the neighborhood is not a good thing. So we want to give them the flexibility to do it.*
4. **S. Williams-** *But he didn't see any.*
5. **Bozarth:** *I know, but I don't think he, Officer Castro, based on the report, acted maliciously. He may have acted irresponsible, but he was trying, I think, to do the right thing in protecting against the degradation and quality of life. That's part of what we expect our police officers to do.*
6. **S. Williams-** *I see where you are coming from, but I come from a different prospective. I have been stopped by the police twice for no reason. I was even, at one point, accused of running a red light and I was the third car in line. So when you say there is no harm done to a person when they were stopped-if they go ahead and let them go. I think that sometimes we have to be real careful because it is a very, there's a mental issue. When you see that blue light, especially when you know you didn't do anything, it is devastating. So, I want you to get the bad guys, but there, also, needs to be a*

*standard. I think that it is a shame when I read this...I think it is a shame. That there's so much crime, but then there's so much of this. If we would spend our time and be efficient instead of going on fishing expeditions. Because I think as a citizen or police officer, I could come up with a reason to stop anybody if I really wanted to stop somebody. But we don't have a standard that allows the community to respect us as serving and protecting them. Then we will never be safe in our communities. When you don't have respect for those you are trying to serve and help then we have a problem. Unless someone hasn't been stopped on a fishing expedition they wouldn't understand the devastation that it involves. So, I hear what you're saying, but I think if you haven't been in the shoes, you won't think that it's as serious as it is.*

7. **Bozarth:** *I think it was an inappropriate stop; and I intend to vote that way.*
8. **Souder:** *The comment I will make would be that in the report where you talked about his wireless microphone, he said it was working when he checked it out, but he didn't turn it on. This to me is an indication that he didn't want that recorded.*
9. **Bozarth:** *Let me just share that with you. It should be noted that while driving during the traffic stop Officer Castro did not have his wireless microphone activated in accordance with SOP and mobile video recording. So according to Officer Castro's daily activity report patrol car's mobile audio system was functioning. So you're right that makes it a little more suspicious.*

Following the discussion, **Bartels** moved to accept staff's recommendation of sustain. The motion was seconded by **Price**. Hearing no further discussion the vote was called and the motion was approved unanimously.

#### Discipline Recommendation of Officer Castro

**Robin Lolar** presented Officer Castro's disciplinary history. She reported that Officer Castro has been on the force since March 1999. Between the dates of August 12, 2010 until the present, he has 12 complaints lodged against him, with one pending at this present time. Seven of those 12 complaints were sustained and the latest complaint was sustained as a category D violation.

#### *Discussion...*

1. **Bartels:** *So you're saying that OPS has already sustained this case?*
2. **Lolar-** *No, these are other cases that he has within a five year span. Seven sustained of the 12 within a five year period. The latest one was conformance to directives, which actually there are three that were dealing with following policy and procedure. The latest one was dealing with his state driving. He has a couple more incidents where he was sustained for his conduct when driving. Which gave the latest one a D category and he received ten days suspension. I'll just go down the line; he had a force, which was a category C where he received a three day suspension. That was in March 2011 for unnecessary use of force. October 2011 he received category A an oral admonishment for handling recovered property. He didn't put it in inventory properly. He received a written reprimand in January 2012 for performance directive for not putting inventory property in its proper place. That was maintained at an A category. In November of 2012, he received a B category with a day suspension for not appearing in court. March 2013 he received one day suspension, which was reduced to a written reprimand for safe driving. That was a case where an anonymous caller called in and complained about his excessive driving. He was speeding trying to stop a motorcycle. He was given a B category violation for safe driving and a written reprimand. They felt his conduct was unbecoming. June 2014 was another conformance to directives where he improperly impounded a vehicle that was not searched properly prior to impounding. They gave that a C category. He received five days suspension. Then it was reduced to one day suspension. The latest sustained case is February 2015 where he received 16 days. It was then reduced to 10*



days suspension for safe driving. I know that all of these are not the same or similar to the incident that you have before you, today, that we are recommending sustained. If he didn't have all this other stuff or history, I would say this would fall under a category A violation. But reviewing all of this noncompliance to directives it's my suggestion that according to their policies it says that any current sustained category B violations that occurs during the reckoning periods of three or more past violations related or unrelated does increase it to a category D level. Any current sustained C categories violation that occurs during the reckoning periods of three or more past violations related or unrelated is increased to a category D level. I would see this falling in between a category C and D because of his consistency of noncompliance to policy and procedure. He has a consistency of not following proper procedure. This case that we are discussing is the same as the others, not following proper procedure, not following policy.

3. **Bartels:** What are the disciplinary guidelines for those categories?
4. **Robertson:** It is a 4 to 15 day suspension. Category C is a 4 to 15 day suspension.
5. **Lolar-** Category D would be 16, 25 to 30 day suspension.

Following the discussion, **S. Williams** moved to recommend a 10 day suspension without pay. **Bartels** seconded the motion. Calling for the vote, the motion was approved by all.

It was also motioned by **Bartels** to add to the recommendation for APD to investigate and to review the fact that he didn't follow policy in activating his microphone during the traffic stop. **S. Williams** seconded the motion. Calling for the vote, the motion was approved by all (6 to 0 in favor).

C. ACRB CASE NO. 14-114: EXCESSIVE FORCE  
(*Sheena Robertson, Case Investigator*)

Case Summary: A male complainant alleges that Sgt. Thomas Apple engaged in unnecessary and excessive force when he placed the complainant in a choke hold causing him to lose consciousness. The Complainant was arrested on Auburn Avenue for selling drugs and about a month a half later he pled guilty on those charges and received a six year sentence. The drug in question was crack cocaine. Sgt. Apple admits to using force to restrain the Complainant and this occurred at the precinct after the arrest was made. Sgt. Apple does deny choking him. Sgt. Apple said he placed a face lock on Complainant. He grabbed the Complainant from behind and placed his right arm around his chin cradling his face, while at the same time using his left index and middle finger to apply pressure to the area below the Complainant's ear. Sgt. Apple stated that he kept the Complainant in that position for approximately two minutes or so. Sgt. Apple contends the force he used was reasonable and necessary because the Complainant was being combative and preventing the officer from searching him. Sgt. Apple admitted he was not taught the face lock technique in any training at the academy, yet he contends he only used it this once on the Complainant. APD's training academy and defensive tactics instructors have not heard of the term *face lock*. Sgt. Apple is ex-military and may have picked this up in previous experience. According to the staff research that Sergeant Apple's use of this technique was not reasonable proportionate to the need of force in order to get control of the Complainant. The Complainant who was handcuffed at the time (*he was in the precinct*) and surrounded by several other officers who could have assisted in restraining the Complainant who is 6 feet tall and weighs 165 pounds.

The staff recommends the allegation of excessive force against Sgt. Thomas Apple be assigned a finding of **sustained**. There appears to be an inconsistency in Officer Jones statement that it should be addressed by APD as it relates to his assertion that the Complainant kicked him causing him to fall to the ground. None of the other officer's interview, including, Sgt. Apple reported this occurred. The board may want to recommend the APD look into that, as well. There are, also, conflicting accounts about how the search of the Complainant was conducted. It is recommended the board refer this matter to APD for further investigation to determine whether any constitution or policy violation occurred. The complainant was taken to jail where he was further searched and they found of quantity of crack cocaine hiding in his

buttocks. So the drugs where there the defendant pled guilty to the charge of selling the drugs on the street and received a six year sentence.

*Discussion...*

1. **S. Williams**- *I have a procedural question. Are there cameras in these rooms?*
2. **Robertson**: *There is no video in the precinct where this happened.*
3. **S. Williams**- *Everybody has a different account of what happened. Two of the guys said they don't remember.*
4. **Robertson**- *Well one of the things is consistent is that he did say he was not trying to get away. But when he felt the officer trying to reach into his buttocks that's when he started to resist. He felt like he was being violated at that point.*

Following the discussion, **Bartels** moved to accept staff's recommendation of **sustain**.

**Price** seconded the motion. Calling for the vote, the motion was approved by all by a vote of 6 to 0.

#### Discipline Recommendation of Sgt. Thomas Apple

**Robertson** reported that Sgt. Apple was hired in January 2004. He has been a Sergeant since 2012 in the past five years he has had five complaints. None of them were excessive force complaints. One of the complaints was failure to complete an arrest report. He received a one day suspension. It was for multiple times he failed to do that, an arrest report. The other two times he had accidents with a vehicle. Another time he got a written reprimand because he gave a citizen an incident report which hadn't been approved by central records. The last complaint was a false imprisonment complaint, but he was exonerated. The complainant initially failed to stop at a check point and show his license. We have 4 sustained complaints but two of them dealt with vehicle accidents and the other one dealt with failure to follow procedure and file and complete an arrest citation. The other is for giving a citizen a police report prior to it being approved, but there are no prior excessive force complaints against him, so this will be a category C. So we are asking for a suspension, demotion or training.

*Discussion...*

1. **Bozarth**: *So should this be sustained? If so would someone make a motion to that affect?*
2. **Price**- *I would have to give him at least a 3-day suspension. We can also send him to psych services first.*
3. **Robertson**- *This is a category C. You can recommend a psychological evaluation.*

Following a brief discussion, **Bartels** moved to recommend seven days suspension and additional training in approved restraint techniques. **Price** seconded the motion. Hearing no further discussion, the motion was approved by a vote of 6 to 0.

It was also moved by **S. Williams** that in the letter to APD that it includes a recommendation to ask the APD to look into the fact that Officer Jones when searching said the Complainant kicked him and caused the officer to fall to the ground. That seems to not be corroborated by the other officers. Another point to add to the letter is that the search of the Complainant was conducted under some questionable circumstances and the board refers this investigation for APD to determine whether any constitution or policy violations occurred. **Bartels** seconded the motion. Hearing no further discussion, the motion was approved by all a vote of 6 to 0.

#### D. ACRB CASE #14-105 (Additional Action by the Board)

Regarding this case, **S. Williams** made a motion to reopen Case #14-105 discussion regarding Officer Castro and recommend psych services as additional discipline. **Bartels** seconded. Hearing no further discussion, the motion was approved with one opposing vote (**Morris**).

## OLD AND NEW BUSINESS AND OTHER COMMENTS

The *Vice-Chair Bozarth* opened the floor for discussion of any old or new business.

### A. NACOLE CONFERENCE

*Robertson* indicated that *Chair Harrison* was to lead the discussion about the NACOLE conference but due to his absence the discussion will be deferred to the next board meeting.

#### *Comments:*

*Price* stated the following, "I feel that other people should go to the NACOLE conference instead of the same people over and over again. I have more comments but I will save them until the next meeting. The conference should not be a paid mini-vacation but other people should be allowed to go and no more than two people."

*S. Williams* asked the board members to take at least 20 of the 'Know Your Rights' cards and distribute them to people they come in contact with daily. She said, "I think the more aware citizens are the better we all are. Personally, I pass out 2 to 300 of these cards and I know everybody can't do that but I think this is something we can do where ever we go."

### B. OLD BUSINESS:

*No discussion.*

## PUBLIC COMMENTS

*There were no public comments.*

## ADJOURNMENT

Hearing no further business, the *Vice Chair* entertained a motion to adjourn. *Bartels* motion to adjourn. *Morris* seconded. Meeting adjourned at 8:05 p.m.

*Approved: May 14, 2015*  
*Paul Bartels, Board Secretary*