

**APPROVED: January 10, 2013**



**ATLANTA CITIZEN REVIEW BOARD**

**DECEMBER MEETING MINUTES**

55 Trinity Avenue, SW, Committee Room Two

Atlanta, Georgia 30303

December 13, 2012 / 6:00 P.M

**ROLL CALL**

*(Eleven Members of the Board)*

ACTIVE MEMBERS PRESENT

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

**RYAN JOHNSON** (*R. Johnson*)

**BILL BOZARTH** (*Bozarth*)

**LABRIAH LEE** (*Lee*)

**WILLIAM HARRISON** (*Harrison*)

**ALAN MORRIS** (*Morris*)

**BARBARA HUBBARD** (*Hubbard*)

**RUTH PRICE** (*Price*)

**CHARIS JOHNSON** (*C. Johnson*)

ACTIVE MEMBERS ABSENT

**MACEO WILLIAMS** (*Williams*)

ONE VACANT APPOINTMENT

*Atlanta Business League (vacant 5 month)*

STAFF ATTENDEES

**SAMUEL LEE REID** (*Reid*), Executive Director; **KENNETH LIVELY** (*Lively*), Investigator; **SHEENA ROBERTSON** (*Robertson*), Investigator; **MYOLA SMITH** (*Smith*), Recorder/Transcriber; **BILL CASTING** (*Casting*), Attorney, COA Law Department

**A G E N D A**

**MEETING CALLED TO ORDER**

The meeting was called to order by **Chair Bartels** at 6:00 p.m. *It should be noted that the meeting started a half hour earlier due to the Holiday Reception starting at 7:00 p.m. for the Board and invited guest.*

The **Chair** welcomed citizens announcing Public Comments will be heard later into the agenda. If any person wishes to speak, please sign up and limit your comments to three (3) minutes.

The **Chair** also welcomed members of the Atlanta Police Department (APD), Office of Internal Affairs: Major Elder Dancy and members of his staff.

Osa Benson was recognized by the **Chair**. Ms. Benson was nominated by the Gate City Bar Association to serve as Charis Johnson's replacement on the board. She has been practicing law since 1998 and is a former

Criminal Defense Attorney. Ms. Benson worked for seven years out of the Public Defender's Office of Fulton County. Presently, she is doing civil litigation at Alston & Byrd. Ms. Benson said, "I have a strong interest in civil rights, human rights interest and helping the community at large. I am excited about the opportunity to be on the board." The nomination will go to the City Council for consideration.

## **APPROVAL OF MINUTES OF THE LAST MEETING, OCTOBER 11, 2012**

The *Chair* directed the board's attention to the minutes for October 11, 2012 meeting. *It should be noted that October minutes were tabled at the November meeting.* The floor was open for discussion and corrections to the minutes. *Chair Bartels* noted a correction on page 6, *Discussion item 2, and third line: 'citation' changed to 'situation.'*

*Bozarth* moved to accept the minutes as modified. The motion was seconded by *Harrison*. No further discussion, the motion was approved by all.

## **APPROVAL OF MINUTES OF THE LAST MEETING, NOVEMBER 8, 2012**

The floor was open for discussion and corrections to the minutes. *Chair Bartels* noted a correction on page 6, *Discussion item 11, and first line: 'willing' changed to 'willingly.'*

*Bozarth* moved to accept the minutes as modified. The motion was seconded by *Harrison*. No further discussion, the motion was approved by all.

## **EXECUTIVE DIRECTOR REPORT**

*Director Reid* provided highlights from his report:

### **A. ACRB WHERE ARE WE? My First 90 Days**

*Reid* started as the new Executive Director, August 22, 2012. He charted out the first 90 days noting where the ACRB was when he started; the current status and what is next. A copy of the chart was included in the board packets. *Reid* asked the members to review the report and they were also encouraged to ask questions.

### **B. OPEN ISSUES FROM LAST MEETING**

*Reid* reported that at the last meeting, he introduced the topic of agency values and how that conversation was shaping up in the office with regard to what those values are and the core competencies. He indicated that the discussion will lead up to the Board retreat that will possibly, be in February. He said, "We are looking at having a couple of retreats so that the Board can do some team building and discuss board operating mechanics. Last month we discussed 'integrity and credibility. The two values for tonight are commitment and accountability:

- Commitment - We recognized and acknowledge that only through perseverance and steadfastness that we can accomplish our mission.
- Accountability – We recognize and acknowledge that just as we seek to hold others accountable for their actions, we too shall be accountable for our actions.

### **C. OURTREACH ACTIVITIY**

- *M. L. King Breakfast* – *Reid* reported that he would like for ACRB, as an agency, to participate, as well as, individual member participation in the 10<sup>th</sup> Annual Dr. King Holiday Human Rights Prayer Breakfast. He said, "We would like to purchase a table. One table

seats ten people and I am hoping we will have as many board members as possible attending. The breakfast is on January 18<sup>th</sup> at the downtown Hyatt Regency Atlanta. Please send me an email if you are interested.”

**Reid** announced that during the King Week Celebration (*Sunday, January 13<sup>th</sup> through Monday, January 21<sup>st</sup>*), in addition to the breakfast, there is the annual March and Rally. The assembly time is 1:15 p.m. **Reid** said, “Also, as an agency, I would like for us to participate. We will get a banner for us to hold as we march and following the march, there are other activities being held. I believe that our participation in the King March and following activities will be a good way to let the public know that we are here and we support the social justice aspect of what we do.”

- **Meetings with Appointing Agencies** - Last month, **Reid** sent an email asking board members to set up a meeting with the agency that appointing them to the ACRB. He said, “As for the board members, all you would need to do is attend but if you want to participate that will be great; but your attendance and setting up the meeting is what is really required. I would like to have all of these meetings done by April. This is another part of our community outreach.”

#### D. FINANCIAL DISCLOSURES

Financial Disclosures will be filed in January. The process can be completed on line. You will receive an email prompting you to file. Members are encouraged to be on alert and file as soon as asked to do so.

#### E. RIDE ALONGS

Some members have already responded and completed the required form. **Reid** said, “This is a training requirement and every board members has to participate. I spoke with Major Dancy recently, and the police department is working on scheduling of the rides. I am actually doing one tomorrow night.”

**Hubbard** asked, “If you have already been on a ride, do you have to participate again?” **Reid** stated, “If you have previously participated, you need to be able to provide documentation, or something like that.”

#### F. BOARD MEMBER RECOGNITION

**Charis Johnson** was recognized for her outstanding contribution to the Board. **Reid** stated, “**Charis (C. Johnson)** has been a member of the board since its inception. She is one of the original members who we consider to be cornerstones of the ACRB. I wasn’t here for that historic time, but I have had the pleasure of getting to know you over the past three months and through our conversations and interactions, it has been great.” **Reid** presented **C. Johnson** with a gift of appreciation.

**C. Johnson** expressed her appreciation and said, Thank you all and it has been a pleasure working with everyone on the Board. Like **Reid** said, I have been here from the beginning and I’ve seen a lot of changes and I feel the board is in a really good place right now. I have met a lot of good people over the years and the staff is fabulous. We couldn’t have done it with them. When we first started, we did not have a staff, we had nothing. Given where we started and where we are now, it has been fabulous and I have enjoyed working with everyone.”

**Bartels** expressed his appreciation to **C. Johnson** for a job well done. He said. “I just want to thank you for everything you have done for the Board. I really enjoyed working with you. I know you have been here a long time and have done a lot.”

## 18<sup>th</sup> ANNUAL NACOLE CONFERENCE REPORTS

Vice Chair **Harrison** reported. He said, “I, attended the conference in San Diego along with Mrs. Ruth **Price** and Maceo **Williams**. I have flash drives for everyone. The drives were reproduced by the staff and it includes most of the information and materials covered at the conference. In your packets, you have the actual conference program that goes over the classes that we attended, as well as, the speakers for the classes. There were some very interesting courses and interaction that we had amongst ourselves and with everybody from across the country including Canada. The flash drive covers most of the presentations at the conference; but the things that I thought may have been extra, I made notes. I will pass around a couple of items that I think you may find helpful and once you have reviewed them, you may want to get a copy.”

He further stated, “With regards to policy recommendation, this Board, sometimes, struggle with recommending and changing policy and creating policy. I have copies of the Washington D.C. and New York City boiler plate for policy recommendations. This course was interesting and although the information was specific to a particular city, I found that in those recommendations there were some things that we could possibly use later on when we try to fine tune our own policies. I also found the course for mediation to be quite helpful. I have a tri-fold program that outlines what a mediation program looks like. When you look through the material, you will be able to see that we may want to visit this particular process to see how we can incorporate mediation into our own process as we move forward in the future.”

Responding to a question from **Bozarth** regarding how mediation would fit into our current process, **Harrison** indicated that mediation would not change our process but it could enhance our process. To summarize the process, **Harrison said**, “The documentation that I am passing out tonight, will give you more details regarding the process. In a nutshell, the mediation aspect will bring together the complainant and the officer together to mediate the grievance. The end result is that keeps the negative information off the officer’s file jacket, so to speak. If the two parties can come to some sort of agreement, during this process, then the win for the police is nothing goes in the officer’s file. The officer and the complaining witness have an opportunity to sit down *face-to-face* and iron out whatever difference they have. The information being passed around will explain in more detail. Overall, the conference was an invaluable experience. I have the contacts if you need more information.”

Ruth **Price** also attended the conference. She said, “I attended classes that were of particular interest to me and what I felt the Board could take and move forward on. One of them was “Getting Over and Knowing How Not to Get Stuck Putting Together an Oversight Board.” I had the pleasure of sitting with Cris, our former director, who was on the panel. She shared some personal things just like the rest of the people on the panel. The main facts brought out were how to integrate a board with already established relationships in the community, the police department, with police officers and so on. Because this is something new to those stakeholders and you really have to come in being humble and build trust. If you don’t really trust, you are going to get off to what this Board got off to in the first go around. I was impressed that they were honest about some of the things they did wrong and some of the things you can do to get the board moving in the right direction such as: not being objective, the various models, having an Ombudsman (*which Atlanta does not have*) for motoring, and the strength and weakness of various oversight models. There was also information on fact finding and how to go about gathering facts from the community and dealing with other people speaking out on behalf of the Board without being authorized.”

**Price** continued and said, “Some of the pitfalls to try and stay away from involved being objective and leaving behind preconceive notions about what you think law enforcement is mainly about. Training was really emphasized. You must have training to know something about the culture that you being called to investigate. The Police Department is a culture but we have to get rid of preconceived notions if we are going to treat them fairly. I must commend our new Executive Director for understanding this and reaching out to talk to the Chief of Police, deputy chiefs and everybody else. By doing this, we won’t have any

obvious problems as we go down the road. I know that the police department isn't too happy about us investing the things that they do, but if you don't have anything hide, you don't care who is investigating. Basically, I was in agreement with all the things that came up in that particular session about how not to get stuck."

Another session **Price** attended was "How to Access the Priority of an Investigation." She said, "I decided to attend this session because of some of the things I hear in our investigations. I think the main thing to make people understand is that in any investigation, you need to answer the 'W' questions...*What happen? Where did it happen? When did it happen? Who did it happen to?* If you stick to those questions, you will have a quality investigation. However, if you interject your feelings and vices, you will not have a good quality investigation and we want to produce investigation that will stand up to the police department or anybody."

Mental illness sessions were also of interest to **Price**. She reported, "The Atlanta Police has just hired a Psychiatrist. I know her personally and she has already said that she would like to meet with the **Chair** and **Vice Chair** of the Board to see how she can work with us and deal with some of the issues that we encounter in this area including abuse. The Police Department has lost sixteen (16) officers and they are stressed and frustrated and some officers don't always conduct themselves in a professional manner, so we are likely to get more cases of abuse. The expertise of the Psychiatrist can be very helpful regarding these types of cases. At the conference, it was emphasized that we shouldn't want to make oversight a life time thing. If you can get the agencies on the right track and people feel comfortable and the community has regained our trust, this will not need to be a board forever."

Wrapping up, **Harrison** asked members to refer to the conference program schedule and note the class that was offered on Wednesday morning pertaining to 'Officer Involved Shootings.' He indicated that there was a power point presentation on the flashing regarding the session. He encouraged everyone to review it. With respect to Mediation, **Harrison** also noted that if the Board decides to include mediation in the future, it may help to appoint a Mediation Coordinator who can assist in setting up that process.

## **INTAKE REPORT FOR NOVEMBER 2012**

**Investigator Robertson** reported on the number of complaints received for the month of November 2012. **Robertson** reported that a total of seven (7) complaints were received for the month and they are listed as follows:

### Complaint Number: 12-56, Tiki Simms alleging Excessive Force and False Arrest

Mr. Sims alleges that on August 12, 2012, APD Officer Desmond Wareham falsely arrested and charged him robbery. He further alleges that during the incident, Officer Wareham pepper sprayed him for no justifiable reason.

Staff recommends investigation as an Excessive Force and possibly, a False Arrest complaint. Preliminary investigation revealed that Mr. Simms' criminal case is still pending adjudication in the Fulton County State Court and the False Arrest allegation will depend on its outcome. Therefore recommend suspension of the investigation pending its adjudication.

### Complaint Number: 12-57, Duane Blocker alleging False Arrest & False Imprisonment

Mr. Blocker alleges that on November 2, 2012, APD Officer Tyler Capp falsely arrested him. Preliminary investigation revealed Mr. Blocker's arrest was pursuant to a warrant issued out of the Fulton County Magistrate Court on October 31, 2012.

Recommend dismissal of the complaint.

Complaint Number: 12-58, Matthew Cardinale alleging Improperly Detained

Mr. Cardinale alleges that on November 6, 2012, at approximately 3:00 p.m. while walking on Lenox Road toward Cheshire Bridge Road, two caucasian APD officers sitting in their patrol car, stopped him and asked if he was okay because he was walking fast. He said he replied, "I'm fine." He said they then asked if he lived in the area because he looked homeless because his jeans and jacket were torn. He said he told them that he lived in the apartments nearby. He then went on his way.

Recommend dismissal because it does not fall into the type of false imprisonment as defined by the ordinance ("*intentionally restraining another person without having a legal right to do so; physically detaining someone without the legal right to do so*").

Complaint Number: 12-59, Christopher Jordan alleging Excessive Force

Mr. Jordan alleges that on November 14, 2012, Fulton County Jail Correctional Officers physically assaulted him.

Recommend dismissal because the allegation is against a Fulton County employee and is outside the Board's jurisdiction.

Complaint Number: 12-60, Cindy Wallace alleging Excessive Force

Ms. Wallace alleges that a Gwinnett County Police Officer physically assaulted her son.

Recommend dismissal because the allegation is against a Gwinnett County Police Officer and is outside the Board's jurisdiction.

Complaint Number: 12-61, Charles Rife alleging False Arrest

Mr. Rife alleges that on September 20, 2012, APD Officers falsely arrested and charged him with armed robbery. Preliminary investigation revealed that Mr. Rife's arrest was pursuant to a warrant issued out of the Fulton County Magistrate Court on August 29, 2012.

Recommend dismissal of the complaint.

Complaint Number: 12-62, John Myers alleging Improperly Detained and Abusive Language

Mr. Myers alleges that on November 21, 2012, he was improperly stopped and detained by APD Officers. He further alleges that the officers were verbally abusive toward him during the stop.

Recommend investigation as a False Imprisonment and Abusive Language complaint.

**RECONSIDERATION OF COMPLAINT NUMBERS 12-30 and 12-37**

The ACRB Staff requested the Board dismiss ACRB Complaints No. 12-30 and 12-37 due to the complainants lack of cooperation.

The complainant, Shemetra Carter-Fiar, ACRB Complaint No. 12-30, submitted a letter dated November 26, 2012 stating that she is withdrawing her complaint.

The complainant, Euriah Bennett, ACRB Complaint No. 12-37 indicated that his wife, whom he filed the case on, does not wish to pursue this matter. Furthermore, Mr. Bennett stated that he has no personal knowledge of the incident. Therefore, without Mr. Bennett's wife statement, it would be impossible to investigate this incident.

Therefore, based on the aforementioned facts, it is recommended that the Board dismiss both complaints.

***Total ACRB complaints received from January 2012 to November 2012 is 62.***

The ***Chair*** entertained a motion. It was moved by ***C. Johnson*** to accept staff's intake recommendation. ***Price*** seconded the motion. Hearing no further discussion, the vote was called and the motion was passed unanimously.

## **REVIEW OF CASES:**

### **A. COMPLAINT NO. 12-05, ALLAN AND ANGELA PROFFITT**

***Chair Bartels*** summarized the complaint filed by Mr. Allan Proffitt and his wife, Mrs. Angela Proffitt regarding an incident that occurred on the Havana Club on New Year's Eve early in the morning, New Year's day. The Proffitts' complaint alleges False Arrest and Excessive Force against Officer Heald of the Atlanta Police Department. The floor was opened for discussion.

*Discussion...*

- 1. Price*** stated, "It appears that everyone was at this club on New Year's Eve having a party and drinks were involved and a brawl started. The officers had a right to be there. The SOP says they cannot work in the club, but they can sit outside. When the brawl started, the officers were summoned in. There were so many people and so much confusion. These two people (the Proffitts) were the ones who walked up to the police and made a complaint and they were also the ones who were locked up because it was just so much going on. With people coming out and running all over the place, the officer had to gather the two people that the person said were involved, and that happened to be the husband and wife."
- 2. Bartels*** said, "I agree with Ms. ***Price***. My impression from reading the entire report, which was really well done by the way and I appreciate it. I think it was a thorough investigation. People either didn't recall or there was no corroboration. In one instance, if I recall correctly, the Club Manager did corroborate the officer's account regarding Mrs. Proffitt whether they were fighting or not."
- 3. Bozarth*** asked, "Ms. ***Robertson*** did you ever determine if others, other than the three parties described in the material were ever arrested? Apparently, there were people inside the restaurant that would be good candidates to have been arrested."
- 4. Robertson*** indicated that those were the only three people arrested that night at the club.
- 5. Bozarth*** said, "The only comment that I have is, I support the recommendation of the staff, but the time line made our job very difficult to get a real clear picture of what happened. They filed a complaint at the end of March. We had to wait for the court cases to take place and one of those got adjudicated in June and the other was dismissed in August. By the time you interviewed the officers it was October. So we should not be surprised if there is not a very good recollection on this. Just in general terms, how do we avoid being ten or eleven months after the fact and therefore being at a disadvantage? Is there something we can do different in a case like this in the future that would give us a better chance to fully understand the situation?"
- 6. Price*** responded, "I brought this up before. You know the amount of time the complainant has to file their complaint is six months, seven months, and eight months and nine months. As an officer, if you asked me what in particular happened, considering as many calls as I have gone on, I couldn't tell you. That is one of the disadvantages that the citizen has is a whole year to come and file a report. By that time, the officers could be transferred or they could no longer be on that particular assignment. I don't see anything that could have been done on that particular case."

7. To clarify the amount of time a person has to file a complaint, **Bartels** stated, "The citizen only has six months or 180 days from the time of the incident to file a complaint."
8. **Bozarth** responded, "Most of the delay was not due to the delay in the complaint. The complaint was within 90 days. We had to wait by policy, because if there is a pending court case, we are charged to investigate. Is there any reason to revisit that?"
9. **Reid** stated, "I think that is legitimate. We need to look at ways that we can move forward on some of these cases."
10. **Bartels**, "I think that would be good place to visit too. On one hand we don't want to spend a whole lot of time on a case that if the complainant ends of pleading guilty or getting convicted beyond a reasonable doubt that is clearly probable cause for an arrest. But perhaps maybe some initial interviews could be done while everything is still fresh and just hold off on making a recommendation."
11. **Reid**, "One of the things we discussed in the office is the situation where you have multiple allegations. Some of those allegations can be moved forward, and we can at least move forward getting the statements on those."
12. **C. Johnson** provided some background information on how the policy was decided early on by the Board. She said, "We went through this before, in fact, we (the Board) have had this very same discussion many times, but I want to give you some historical information about why it was changed. It was changed to allow for time for the cases to be disposed of because of the issue of running up against the criminal cases still pending. When criminal cases were pending before the court, we found that we would have to table a lot of the investigations because most of the complainants would have taken a plea, so a policy was developed and a vote taken to change it. Although we made this decision we also agreed to consider case-by-case situations. You see there was a reason for us to have that way. Another reason was the concern on how best to use our limited staff and resources. We have two investigators and how many cases can we reasonably review in a year's time. Regarding this particular case, just looking at the time line, it may seem like it was a long period of time, but based on the time line alone, this was not a really long process in terms of resolving it. Every person has different recollection and recall, so some of it can't be convenient. Yesterday, I saw two people falling down the escalator in Phelps Plaza and my memory is already getting cloudy. Witness identification from different angles can go different ways. I think there were officers able to put together enough given the fact that the circumstances in this particular case and where there was so much confusion going on...given what we had and based on the horrific situation in terms of the fighting going on, I think they put together a decent enough investigation."
13. **R. Johnson** indicated that he agreed with the **Chair's** suggestion of holding off on the hearing but going ahead with conducting the investigation.
14. **Bartels** stated: "At least getting statements and hold off making a determination and a judgment until we see what happens in the courts. I think that is worth considering."
15. Since Major Dancy of APD was present, **Bozarth** asked, "I know this place (Havana Night Club), it is in my neighborhood. I live about a mile from this place and it has always been a controversy every since it was established. This is my question, is there any way when a police officer ask to be part of an off-duty security detail, do you make any judgment on the place that APD is actually going to participate with? Is there some investigation that you do before you issue these okays for them go forth?"
16. Major Dancy replied, "Yes. They do have to submit an extra job permit which is a request for approval to work that particular extra job. The officer submits it to his chain of command and they make a recommendation. We also have a staff inspection unit that oversees all the extra jobs; so it depends on the location. There are a lot of locations that are off-limits and we have an extra job policy that regulates certain locations. Not only does it depend on the location, but also the supervisor's knowledge of the location and these vary case-by-case. Some of the places that are off-limits are for example, a night club or bar. You could work outside that area, but

you can't work inside unless there is an incident that you have to respond to. Adult entertainment clubs, we can't work those at all."

17. **Bozarth**, "I would suggest that you may want to look at the reputation of the place because by your officers joining in the security of the place, somewhat legitimizes the place and there are places that probably don't deserve the legitimacy of the participation of APD." "So I might suggest that you take that back as a solution to this problem."

18. Major Dancy said, "Absolutely, not a problem and we can take that to our staff inspections unit."

Following the discussion, the following motions were made:

- **False Arrest allegation against Officer Heald:** It was moved by **Morris** to accept the staff recommendation to assign a finding of **not sustained** for False Arrest as alleged by Mr. & Mrs. Proffitt against Officer Heald. **Harrison** seconded the motion. Hearing no objection, the motion was approved unanimously.
- **Excessive Force allegation against Officer Heald:** It was moved by **R. Johnson** to accept the staff's recommendation to assign a finding of **not sustained** for Excessive Force as alleged by Mr. & Mrs. Proffitt against Officer Heald. **Price** seconded the motion. Hearing no objection, the motion was approved unanimously.

## PUBLIC COMMENTS

**Chair Bartels** opened the floor for public comments; however, no one signed up to speak.

## CLOSING COMMENTS

**Reid** announced that Maceo **Williams** was not able to attend the meeting tonight because he is attending the King March Meeting and he will make his NACOLE presentation at the next board meeting.

**Chair Bartels** closed the meeting expressing holiday greetings to everyone. He said, "I would like to wish everybody a happy holiday season. Thank you everybody for coming because I know this time of the year is busy; we all have plans and parties and things to go to but we got almost everyone here except one member, so I really appreciate everyone showing up."

Ms. Benson I certainly appreciate you being here and welcome again. Major Dancy, APD staff, Mr. **Castig** thank you for showing up and also to Rev. Motley, thank you for coming."

## ADJOURNMENT

**Chair Bartels** entertained a motion to adjourn. **C. Johnson** moved to adjourn the meeting. The meeting adjourned at 6:55 p.m.

Approved as to form and content,  
Alan Morris  
Board Secretary,  
  
Signature

January 10, 2013