

APPROVED: April 11, 2013



**ATLANTA CITIZEN REVIEW BOARD
MARCH MEETING MINUTES**

55 Trinity Avenue, SW, Committee Room One
Atlanta, Georgia 30303
March 14, 2013 / 6:30 P.M

ROLL CALL

(Eleven Members of the Board)

ACTIVE MEMBERS PRESENT

PAUL BARTELS (<i>Chair/Bartels</i>)	RYAN JOHNSON (<i>R. Johnson</i>)
BILL BOZARTH (<i>Bozarth</i>)	LABRIAH LEE (<i>Lee</i>)
WILLIAM HARRISON (<i>Harrison</i>)	ALAN MORRIS (<i>Morris</i>)
BARBARA HUBBARD (<i>B. Hubbard</i>)	RUTH PRICE (<i>R. Price</i>)
	MACEO WILLIAMS (<i>Williams</i>)

ACTIVE MEMBERS ABSENT

CHARIS JOHNSON (*C. Johnson*)

ONE VACANT APPOINTMENT

Atlanta Business League (vacant 2 months)

STAFF ATTENDEES

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

A G E N D A

MEETING CALLED TO ORDER

The meeting was called to order by **Chair Bartels** at 6:30 p.m. He welcomed citizens announcing Public Comments will be heard later into the agenda. Comments are limited to three (3) minutes per person. The **Chair** also welcomed Major Elder Dancy and members of the Atlanta Police Department Office of Internal Affairs.

Before moving on to the next agenda item, the **Chair** reminded the board that at the last meeting, Alan **Morris** was nominated by a vote of the Board, to retain the position of Board Secretary. Since **Morris** was not present, and did not officially accept the nomination, the vote to re-elect him was tabled pending his acceptance. Therefore, the **Chair** entertained a motion to complete the action item still pending as a result of last month's election of officers. **Morris** was present and accepted the nomination for Board Secretary. **Bozarth** moved to confirm and **Harrison** seconded. No discussion, the motion was approved.

APPROVAL OF MINUTES OF THE LAST MEETING, FEBRUARY 14, 2013

The *Chair* directed the board's attention to minutes for February 14, 2013 meeting. He opened the floor for corrections and a motion. Minor typing corrections were identified. *Bozarth* moved to accept the minutes with correction. The motion was seconded by *Price*. No further discussion, the motion was approved as corrected.

EXECUTIVE DIRECTOR REPORT

Highlights from *Director Reid* report:

A. COMMUNITY OUTREACH UPDATE

Reid reported that as the office initiates community outreach activity, the concentration will be on Police Zones One, Four and Five. He also said that the City's recreational centers in these zones will be the locations for the activities. "We are trying to hold some awareness and educational sessions in the different recreation centers in those zones. This is part of the overall outreach activity plan that we are implementing and in the next few weeks, you all will receive more information about it. Hopefully, some of you will be able to come out and participate and interact with the community."

B. APD CITIZEN ACADEMY

Reid reminded the Board about the Citizen Academy information that was sent out a couple of weeks ago. He said, "I hope you are able to fit it in your schedule and that you will sign up. I think this will be something that is beneficial for the members and get some exposure to the types of training that the police go through and their programs."

C. FY 2014 BUDGET

Reid reported that the FY 2014 budget season has kicked-off. Meetings start today related to it. "We are requesting the money that we need to operate day to day and additional funds for Community Outreach and also funds to implement a mediation program. I have drafted some documents related to that and if you would like, I can share them with you."

There were questions and comments...

1. *Bozarth* asked how much additional funding was being requested.
2. *Williams* asked why a much greater sum of money was not being requested.
3. *Reid* said, "For the two programs I just mentioned, in addition to our current budget funding level, I am requesting an additional \$150,000 to get those programs started."
4. Regarding a mediation program, *Harrison* asked if legislation would be required alone with City Council approval in order to develop and implement a program.
5. *Reid* said, "At some point, we would need to write that into the ordinance and yes, City Council will have to approve it. I am mentioning it now as a budget item to try to get the money to open the door. Also, in answer to Maceo (*Williams*) comment, I agree, we are definitely underfunded. In the documents that I have drafted, I talk about how the national average is 250 sworn officers per one investigator. For us, when you combine the police sworn officers and corrections sworn officer, our average is approximately 1,091 officers per investigator. That is a concern and that is something that we will need to advocate for."
6. *Williams* said, "Here are my thought about that...the mediation part, which is something we don't have, if you are talking about so many investigators per so many officers, and we are constantly hiring officers and our staff is not growing at all, we will need the money to pay the staff. At the last two national (NACOLE) conferences the concentration was on tasers and mediation. There are so many guidelines but my point is we can't be afraid to ask for the money

so that there is not so much of a strain on Sheena (**Robertson**) and the new investigator **Lively**. We have to think about the future.”

7. **Bozarth** asked, “How long do we have in the cycle before we have to turn in something with the request?”
8. **Smith** answered, “Budget information has to be entered by March 29th.”
9. **Bozarth** said, “We have two weeks and the mediation, I believe, is an expansion of mission over the current law. It seems to me the process on that is that we are going to have to build some support and get the legislation to expand the mission and with that do a fiscal note which would be added to the budget. In terms of your general point Maceo (**Williams**), it would seem to me that that is a discussion worth having, but in the two weeks window, I don’t believe that it is practical to put together the case for a substantial increased budget.”
10. **Williams**, “It depends on how much you are willing and want to work and I am not talking about you (**Bozarth**) personally.”
11. **Bozarth**, “I think the case for a greatly expanded budget would require a lot of justification and backup materials to make the case and make it stick. If we don’t have time to do that then the next fiscal year, I think that needs to be a work item and say that is where we are going to go, but I don’t think we have time to do it in 2014 fiscal year.”
12. **Reid**, “One of the items that is already in the ordinance is the requirement for an ongoing community education program. Since the ACRB has been created you never had such a program. My hope is that this cycle, we can get the money to actually have some consistent outreach and on-going educational programs. We really want to work proactively and as well as the investigations, we need to be out there building awareness and education in a sustainable manner that will help address the issues that citizens have with police officers or corrections officers.”
13. **Harrison**, “Ryan (**Johnson**) mentioned that we should probably create a budget committee to go over these items. To a certain extent, I agree with Maceo (**Williams**), we need to ask for more money, but having experience with budgets, we have to be able to show a need for that. I think the Budget Committee can be well served if we put something together and show a need, but now we have time constraints and I don’t think we have that kind of time now.”
14. **Williams**, “All I can say in a situation like that is the same thing that I have always said, I am willing to work if somebody is willing to work with us whether it is in two week or three weeks. The bottom line is the deadline is here and our hands should be out like everybody else’s hand is out. We need the mediation piece, the outreach piece, we need more staff and citizens of the city need this situation, and we can't be afraid to ask for more money.”

D. BOARD RETREAT

The board retreat took place last month, February 23rd. **Reid** thanked everyone who attended. He announced that a report on the retreat will be presented at the April Board meeting.

E. RIDE ALONG

Reid announced that if any member was interested in participating in a Ride Along with APD to please submit their information as soon as possible. He said four or five members have already participated; however, some additional ride requests have been made and he would like to work on accommodating those request.

F. TRAINING

Reid reported that last week, he and **Investigator Lively** attended a Corrections Jail and Prisoners Liability Issues Training. “It was quite informative. We plan to do a mock investigation on a corrections case to be able to apply what we learned at the training. We will share that information with you. The standards are a little different but as we do this outreach, we are expecting that we will have some corrections cases and we need to be ready as they come in.”

INTAKE REPORT FOR FEBRUARY 2013

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

Complaint Number: **13-07, Jarvell Scott** alleging **Excessive Force/ False Arrest / Abusive Language**
Staff Preliminary investigation revealed that Mr. Scott's arrest was pursuant to an outstanding warrant. Recommend investigation as an excessive force and abusive language complaint.

Complaint Number: **13-08, Dwayne Sawyer** alleging **False Arrest**
Staff recommends dismissal because the complaint involves an allegation against an Alpharetta Police Officer and therefore, falls outside the Board's jurisdiction.

Complaint Number: **13-09, Kentae Green** alleging **Civil Rights Violations**
Staff recommends dismissal because the complaint is against a security officer at the Atlanta Metro Mall and is not within the Board's jurisdiction.

Complaint Number: **13-10, Tremaine Malcom** alleging **Excessive Force/Abusive Language/False Arrest**
Staff recommends investigation as an excessive force, abusive language and possibly a false arrest complaint. Preliminary investigation revealed that Mr. Malcolm's case is still pending adjudication in the Atlanta Municipal Court, and the investigation into the false allegation will depend on its outcome. Therefore, staff all recommends suspension of the investigation pending the court's adjudication.

Complaint Number: **13-11, Robert Hollis** alleging **Failure to Investigate**
Mr. Hollis alleges that Deputy Chief Renee Propes refused to investigate his complaint against a mortgage company that defrauded money from him. Staff recommends dismissal because the allegation falls outside the Board's jurisdiction.

Complaint Number: **13-12, Andrew Cavanaugh** alleging the **Officer made a False Report**
Mr. Cavanaugh accuses APD officer of making a false report in order to help another officer. Staff recommends dismissal because the allegation falls outside the Board's jurisdiction.

Complaint Number: **13-13, James Pitts** alleging **Failure to Investigate**
Mr. Pitts alleges that APD refused to investigate his complaint that his cousin defrauded money from his mother's estate. Staff recommends dismissal because the allegation falls outside the Board's jurisdiction.

Discussion...

1. *Regarding Cases #13-11 and 13-13, **Bozarth** noted that both were 'failure to investigate' complaints which falls outside of the Board's jurisdiction. However, he asked **Robertson** if APD had the responsibility to pursue claims of fraud, white collar crimes, etc. and where would a person go.*
2. ***Robertson** stated that she referred both complainants to APD-OPS. "I am assuming that any complaint that is file with OPS is investigated. Major Dancy can clarify that for us."*
3. ***Major Dancy**, "Yes, we look into the allegation and if there is a policy violation then we will definitely investigate it. These complaints specifically, would probably fall under the jurisdiction of our Major Fraud Unit. They will review and determine if there is any criminal involvement. They could possibly investigate or refer it to the DA Office if there is not criminal involvement."*

4. To clarify, **Bozarth** asked if OPS is the proper place to take the complaint. **Major Dancy** replied, "Yes."
5. Regarding complaint number 13-12, **Bartels** asked, "Mr. Cavanaugh alleged that the officer filed a false report on behalf of the other officer, was Mr. Cavanaugh detained or actually arrested, or was he just issued a citation?"
6. **Robertson**, "No, he wasn't arrested and he did not receive a citation."

The **Chair** entertained a motion. It was moved by **R. Johnson** to accept the Intake Report with staff's recommendations. **Price** seconded the motion. Hearing no further discussion, the vote was called and the motion was passed unanimously.

DISMISSAL OF COMPLAINT #12-14, ANDREA GARRIS

Investigator Robertson addressed the Board regarding the request to dismiss Complaint #12-14 filed by Andrea Garris due to her lack of cooperation. She reported that on June 5, 2012, the Complainant filed a false arrest complaint against APD Officer Eric Wheeler. To date, Ms. Garris has failed to respond to the ACRB's numerous letters and telephone calls to contact the officer so that she can be interviewed. For this reason, staff recommends that the Board dismiss the complaint.

The **Chair** opened the floor for a motion.

It was moved by **Morris** to accept staff's recommendation to dismiss Complaint #12-14, Andrea Garris. **Harrison** seconded the motion. Hearing no objection, the motion was approved.

DISMISSAL OF COMPLAINT #12-51, JOE LONDON

Investigator Robertson addressed the Board regarding the request to dismiss Complaint #12-51, Joe London. **Robertson** reported that on November 5, 2012, Mr. London filed a timely complaint with the ACRB. He alleges that on August 12, 2012, APD Officer Desmond Wareham falsely arrested and charged him with Armed Robbery (O.C.G.A. Section 16-8-41). When Mr. London filed his complaint, his criminal case was still pending adjudication in the Fulton County Superior Court; therefore, the Board suspended the investigation until the adjudication of his case.

According to the court records, Mr. London pleaded guilty on January 7, 2013 to a lesser charge of robbery (*he was also charged with possession of a firearm during the commission of a felony, possession of a firearm by convicted felon and simple battery and those charges were Nol Prossed*). As a penalty, Mr. London was sentenced to one year confinement. Therefore, based on the aforementioned facts, staff now recommends that the Board dismiss Mr. London's complaint because it does not meet the definition of false arrest which defines the authority of the Board.

The **Chair** opened the floor for a motion.

It was moved by **Morris** to accept staff's recommendation to dismiss Complaint #12-51, Joe London. **Harrison** seconded the motion. Hearing no objection, the motion was approved.

DISCUSSION OF DISCIPLINARY RECOMMENDATIONS: ACRB CASES #12-22 AND #12-23

Chair Bartels opened the discussion regarding disciplinary recommendations on complaints #12-22, Mr. Duane Blocker and #12-23, Mr. Howard Wright. These cases were reviewed and discussed at last month's meeting; however, disciplinary decisions were tabled pending additional information about Officer Thomas' training record.

The *Chair* summarized the open action item. He said, "To refresh everyone's memory, the vote of the Board, in Mr. Blocker's case is to **sustain** charges of false arrest and excessive force against Officer Kenneth Thomas. Regarding Mr. Wright, the vote of the Board is to **sustain** the false arrest report and not the excessive force according to medical records at Grady. This case was reset for the staff to investigate what type of training Officer Thomas may have had recently and also to gather more information."

Investigator Robertson provided the report on Officer Thomas' record. She stated, "In your packet there is a copy of Officer Thomas' training history. All the training he received since joining the police academy and since he has been employed is highlighted in yellow which is just two courses and that is pretty much it in terms of what he has received in Search and Seizure and Probable Cause training. The first training was April 26, 2012 and also he received Search and Seizure training that included Probable Cause, September 29, 2011."

Discussion...

1. *Chair Bartels* asked, "Search and Seizure that would include what constitutes Probable Cause?"
2. *Robertson* answered, "Yes, I got a copy of the training PowerPoint and it included Probable Cause."
3. *Bartels*, "Also, just to advise everybody, Mr. **Reid** looked into this for me, and to clarify, under APD SOP, it could possibly be viewed, if we decide, that is abuse of authority?"
4. *Reid*, "Yes according to what I saw in the disciplinary matrix, it possibly could be viewed as abuse of authority."
5. *Bartels*, "I understand the definition of abuse of authority is an officer using his or her authority to abuse, harass, oppress, or persecute any person and I've been informed that the standard sanction for that is one to three day suspension so that's the information that we have. We have several options so let's have some discussion."
6. *Harrison*, "I understand that this officer has been before the Board on another complaint and how did we decide that case?"
7. *Robertson*, "Yes, he has been before this Board and that was in October 2011. The complainant was a Ms. S. Walker and Officer Thomas got an oral reprimand for that case; however, the board's discipline recommendation was higher than the oral reprimand that he received."
8. *Bartels*, "If I recall correctly he was discipline by OPS but for not using the correct charges as opposed to making an unauthorized arrest."
9. *Williams*, "If I remember correctly that was the case that not only had pictures to accompany it, but also had video and transcripts. In fact, the young lady was just sitting down and at that time the question came up was this one of the first thing that was done. This seems to be something that was regularly done on that Boulevard beat with this particular officer. This officer seems to have a track record of abusing his authority."
10. *Bartels*, "Well I would have to say that we are not here to make recommendations against things we have already done. We do have to focus on the facts of the cases that are here in front of us. But it has been pointed out that one of the complainants was arrested more than once and spent six weeks in jail, which is a significant amount of time."
11. As a point of correction, *Reid* indicated that the complainant did not spend six weeks in jail but three days.
12. *Bartels*, "I stand corrected, but I still think three days in jail is a significant amount of time. But I'm concern that it appears on the video tape that one of the gentlemen was not resisting but he

said, "Somebody call 911" and the officer made a comment to the effect that "if you don't get up, you are going to need 911." I think that was totally inappropriate."

Following the discussion, the **Chair** entertained a motion on each charge per person.

ACRB CASE #12-22, DUANE BLOCKER

- **False Arrest:** It was moved by **Williams** to recommend a three (3) day suspension. **Harrison** seconded. Following some discussion, the motion was approved.
- **Excessive Force:** It was moved by **Bozarth** to recommend a three (3) day suspension to be concurrent with other approved recommendations involving this complaint and companion case #12-23. **Williams** seconded. Hearing no discussion the motion was approved.

ACRB CASE #12-23, HOWARD WRIGHT

- **False Arrest:** It was moved by **Williams** to recommend a three (3) day suspension to be served concurrently with companion case #12-22. **Bozarth** seconded. Hearing no discussion, the motion was approved.

REVIEW OF COMPLAINTS: ACRB CASE #12-49, SABRINA PALMER

A. COMPLAINT SUMMARY

Chair Bartels summarized the complaint filed by Sabrina Palmer alleging False Imprisonment. The officers involved in the complaint are Gabriel Garner and Patrick Sullivan. Ms. Palmer's allegation of False Imprisonment is related to a traffic stop where she was cited, according to the officer, for going 52 mph in a 35 mph zone. Ms. Palmer disputes the officer's claim.

Discussion...

1. **Hubbard** asked if there was any way to verify the actual speed in which Ms. Palmer was accused of traveling. She also asked if there was a print out of some sort.
2. **Robertson** responded, "No. When they go to court, basically, the questions are based on his qualifications in operating that particular device and was it working that day and if it had been inspected, etc., but there is no print out that would show her actual speed."
3. **Bartels** said, "If I recall correctly, the gentleman who was with her said it was his belief that she was not speeding, but he did not look at the speedometer and could not verify it. Perhaps Major Dancy can clarify if it is a policy of APD that when a traffic stop is made for speeding if the officer shows the radar gun to the driver? Is that not the regular practice or is it left to the officer's discretion?"
4. **Major Dancy**, "I would have to brush up on policy but as I recall, you don't have to show them. I think it is at the officer's discretion."

B. BOARD VOTE ON STAFF RECOMMENDATION

Following the discussion, the **Chair** opened the floor for a motion. Ms. Palmer has made one allegation against officers Patrick Sullivan and Gabriel Garner. The staff's recommends a finding of **not sustain** based on the determination that the case involves one person's word against another. Under the ordinance, a standard of clear and convincing evidence is required to sustain.

Discussion...

1. **Bozarth** stated, "I think whether Ms. Palmer was speeding or not is a matter for traffic court to decide. What is before us is that she is alleging that she was stopped for another reason. Do you know Ms. **Robertson**, is she alleging that the Pontiac Grand Prix look like a drug

dealer car in general or did she say the car looks like a particular car that she associated with a drug dealer? Do we have clarity on that?

2. **Robertson**, “Yes, she is saying that her vehicle is similar to another person who lives in the neighborhood and allegedly is a drug dealer and that she is constantly being stopped because she is being mistaken as being him.”
3. Responding to **Bozarth**, **Bartels** explained, “I think what we are talking about is a ‘Pretextual Traffic Stop. The idea behind that is police stopping somebody for one reason, but actually there is really another reason and under Georgia law that is legal as long as there is some reasonable articulate suspicion to detained someone. It doesn’t really require Probable Cause because it is not an arrest.”
4. **R. Johnson** explained, “These officers were actually doing speed traps. They had eight citations issued and Ms. Palmer was just one of them. It wasn’t like they were just out there and there’s the Grand Prix, they were out there conducting stops.”

Following the discussion, the **Chair** entertained a motion on the staff’s recommendation to not sustain the allegation.

Officer Gabriel Garner

- **False Imprisonment:** It was moved by **Bozarth** to accept staff’s recommendation to **not sustain** the charge as alleged against Officer Garner. **Harrison** seconded. Hearing no further discussion, the motion was approved.

Officer Patrick Sullivan

- **False Imprisonment:** It was moved by **Harrison** to accept staff’s recommendation to **not sustain** the charge as alleged against Officer Sullivan. **Lee** seconded. Hearing no further discussion, the motion was approved.

CLOSING COMMENTS:

Williams announced that he received a certificate of completion from NACOLE for a training program.

Williams also indicated that although the vote of the minutes had already occurred, there were still some corrections that he wish to make regarding his comments that were, in his opinion, incorrect. He is disputing that he seconded the nomination of **Harrison** for Vice-Chair. Also, he maintains that other comments were omitted relative to **Harrison**’s being a potential candidate for both Chair and Vice Chair position.

It should be noted that **Bozarth** indicated that he recalled **Williams**’ second to the motion nominating **Harrison** for Vice Chair. **Smith** also acknowledged that the second was confirmed and is correct. **Williams** was invited to listen to the actual recording to prove or disprove his concern. In reference to all comments being included in the minutes, **Smith** said, “When I am transcribing I try to be as detailed as possible but if I include everything that everyone said, the minutes would be 25 or 30 pages long. However, if you want specific comments to be written into the minutes and to guarantee that, all you have to say is “For the record,” and those comments will be included. This is a standard protocol in business meetings; otherwise, it just may not be included.”

PUBLIC COMMENTS:

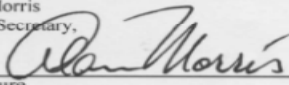
Chair Bartels opened the floor for public comments and one person signed up to speak.

Speaker: Duane Blocker

Mr. Blocker expressed disappointed with the Board's recommendation regarding discipline for Officer Thomas who is accused in his complaint (ACRB Case #12-22) and also the companion complaint of Howard Wright (ACRB Case #12-51). He said, "My question to you is this, how can we have a democratic republic whereby the public servant violates the law and the only backlash is suspension from a job that is being paid by the citizen; whereas, as a citizen if I violated the law, my liberty would be on the line for a year or a number of years depending on my conduct. It is disappointing to me to hear these recommendations because you have audio and video confirming that this officer threatened Mr. Wright and he lied and did so on many occasions. He lied about his badge number. He lied about the fact that we were violating the law and then he restricted us from using public property that belonged to the people. Where does a three day suspension fit the bill of false arrest, false imprisonment, false statements and writings and perjury? I fear officers like that because it is his character that is the problem, not his training. You transform our hero service into a gang when you just slap them on the wrist because that is what they are, a hero. Any man or woman who puts on that uniform and say I may die today protecting someone I don't know is a hero. Officer Thomas is not a hero, he has a track record. He was unleashed on the public in 2007 and by 2009 he already had seven internal affairs investigation formed on him. How is it that he keeps escaping? Officer Thomas is so bold he will violate constitutional rights on camera. I wonder what he will do when he is not on camera. I am not the kind of person who says "F" the police, I love the police. My oldest brother has been a policeman for thirty years. He is a hero because he adheres to principles. When you all put Officer Thomas on the streets, you are putting the public in harm's way. He threatened Mr. Wright and with seven (7) years on the force and four (4) years working with ADID, **Mr. Johnson**, do you seriously think that he didn't know and are you serious that he just needs a reprimand? Officer Thomas should be fired! I thank Investigator Sheena **Robertson** and you for your time."

ADJOURNMENT

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

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

Signature
Date: April 11, 2013