

APPROVED: June 13, 2013



ATLANTA CITIZEN REVIEW BOARD

MAY MEETING MINUTES

55 Trinity Avenue, S.W., Committee Room Two
Atlanta, Georgia 30303
May 9, 2013 / 6:30 p.m.

ROLL CALL

(Eleven Members of the Board)

ACTIVE MEMBERS PRESENT

PAUL BARTELS (*Chair/Bartels*) **ALAN MORRIS** (*Morris*)
OSA BENSON (*Benson*) **LABRIAH LEE** (*Lee*)
BILL BOZARTH (*Bozarth*) **MACEO WILLIAMS** (*Williams*)
WILLIAM HARRISON (*Harrison*)

ACTIVE MEMBERS ABSENT

RYAN JOHNSON (*Johnson*)
BARBARA HUBBARD (*Hubbard*)
RUTH PRICE (*Price*)

ONE VACANT APPOINTMENT

Atlanta Business League (vacant 11 month)

STAFF ATTENDEES

SAMUEL LEE REID (*Reid*), Executive Director; **KENNETH LIVELY** (*Lively*), Investigator; **SHEENA ROBERTSON** (*Robertson*), Investigator; **MYOLA SMITH** (*Smith*), Transcriber; **TRACY TAYLOR** (*Taylor*), Community Liaison, **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 6:36 p.m., starting with the roll call. He welcomed citizens announcing that public comments will be heard later into the agenda and speakers must sign up and limit comments to three (3) minutes. The *Chair* also welcomed members of the Atlanta Police Department (APD), Office of Internal Affairs: Major Dancy, and Lieutenant Jesse Webb.

APPROVAL OF MINUTES OF THE LAST MEETING, APRIL 11, 2013

The *Chair* directed the Board's attention to the minutes for April 11, 2013 meeting. The floor was open for discussion and corrections to the minutes.

Bozarth moved to approve. *Williams* seconded. Hearing no further discussion, the motion was approved.

EXECUTIVE DIRECTOR REPORT

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

A. 2014 Proposed Budget

Reid reported on the budget presentation that staff made to City Council this morning. He explained that as part of the budget process, the Mayor presented City Council with a proposed budget for 2014. Each department is scheduled to appear before the Council to present and explain their budgets as proposed. *Reid* stated that the presentation to City Council went well. He said, "I want to give you one highlight. We have received an additional \$73,461 dollars in our budget for the coming fiscal year to start developing and implementing the mediation program. That's definitely good news and not only are we getting additional funding, we have our current level of funding to continue the work that we have been doing. At the presentation today, I made the Council aware of the need for additional funds next year when we start looking into growing this agency, especially when it relates to outreach, re-education and growing the staff. We also had a discussion about our office needs as far as office space goes. From the feedback that we received, they appeared to be receptive. We'll see next year when its time."

B. OUTREACH ACTIVITY

Reid reported that the annual Sweet Auburn Festival was being held the coming weekend. ACRB will participate this year. The Board's table will be located at John Wesley Dobbs and Auburn Avenue. *Reid* said, "If it is not raining, we will gather there from 11:00 a.m. to 8:00 p.m. on Saturday. On Sunday we will be out there from 2:00 p.m. until 8:00 p.m."

While discussing the Festival, *Reid* introduced Tracy Taylor who is temporarily working as ACRB's Community Outreach Liaison. "She is working in an 'extra help' position and we're glad to have her on board. On June 3rd, we'll have a law intern starting with us for a period of two months. He is a student at John Marshall, so we're excited about him being with us."

Other outreach community events being planned will occur June through September. *Reid* said, "We're going to do community outreach in several recreation centers in the city. We will be working with the Parks Department trying to secure specific locations and dates to hold outreach and educational sessions. We're looking at evenings and possibly weekends. I will be sending out emails, so please keep this in mind because I would love to have your participation. I think that is very important."

C. RETREAT

Reid announced that he will be meeting with Clarification Mediation Inc. consultant, Claire Axom. "If you recall, Ms. Axom handled the board development retreat in February. I plan to meet with her, because I'd like to schedule another phase of that development training in June. Look for an email from me trying to find dates so we can continue with this program."

D. ACRB ANNUAL REPORT

Reid reported on the progress. He said, "The report is about 85% completed. I had to shift my focus a little bit to concentrate on the budget, but now, I'm ready to pick it back up and I am hoping to have that completed within the next few weeks."

E. APD TASER TRAINING

“At the June 13th board meeting, the Atlanta Police Department will conduct a taser presentation for the board members. Also, at the same meeting, the FBI may be doing a presentation on Color of Law investigations. Confirmation of this presentation is pending. Ryan **Johnson** brought this suggestion up and he took the lead on it. We followed up and hopefully, the Bureau will confirm and present at the next meeting.”

Questions and Comments...

1. **Bozarth** asked what the FBI presentation was about.
2. **Reid** stated, “It is a presentation on the ‘Color of Law’ which basically is about investigating police officers for criminal matters.”
3. **Bozarth**, “For the record, what is the total requested amount of the Mayor’s budget for the department?”
4. **Reid**, “The total proposed budget is \$448,113. An increase of \$76,000 and of that \$73,461 goes for mediation.”
5. **Bozarth**, “You also mentioned that as we increase staff we have a space requirement. Are we at capacity in terms of holding the numbers of people we have, or do we have any room to grow?”
6. **Reid**, “We are definitely at capacity. Before we brought in Tracy we were already full to capacity. Right now, we have Tracy sitting at a fold out table to do her work and we also have a temporary employee who we brought in our office for a couple of months work. She’s sitting in one of the other cubic areas. Then when we bring in the intern, we’re going to need to find a place for him. The rest of the space on that floor is occupied by Risk Management (Finance Department) and we’re hoping that they’ll let us use one of their vacant cubicles to carry us over for the summer. But, it’s an issue that we made people aware of and we’re hoping that they’ll be able to resolve it in the next year. The Watershed Department is moving out of City Hall to the former AJC building downtown across from the Philips Arena. The move should free up some space in City Hall and maybe we can then be relocated to a larger office. We are currently having those talks but it’s still a little early right now.”
7. **Benson** asked, “Do you know how we’re going to staff the mediation program at this time?”
8. **Reid**, “Well my proposal is that we secure individual mediators. I don’t believe we should secure a firm because at this stage, the only qualified mediations would go to it and we don’t know what that number would look like, and we don’t want to have money tied up if we’re not having the numbers go there. Actually, in June, I’ll send you guys a document that lays out the proposal so we can discuss it. We want to have some good talks on that, and also if we’re able to get this off the ground the way we need to, we will have to look into an ordinance amendment.”
9. **Williams** asked when the mediation program was going to get started, and if the office was looking at other states that already have mediation programs established and that are doing great. So are we doing that also?
10. **Reid** answered, “As far as the date, that’s not determined. As far as looking at the other states, as I said before, where I was working at before, we had a mediation program and it was one of the first and one of the best mediation programs in the nation. I think we have that base covered. Over the years, I’ve looked at other mediation programs. Most of them are pretty much similar. The main questions that you have are do you want to be mandatory or do you want to be voluntary. How do you want to secure your mediators, and what happens to the complaint if it’s not settled in mediation? Those are basically the main questions that anyone trying to organize a mediation program, relating to citizens and officers, need to decide.”
11. **Williams** stated, “I have a couple of three questions. I’m only asking because after attending a couple of these national things, I looked at the fact that there are some mediation programs out there and they’ve got some pretty nice programs that they offer. I was going

to suggest that we take a look at them. The third question I was talking about is Tracy's background. Can you give me some kind of background, Tracy, on where you come from and what you do in order to be in this position that you are in right now. Can you help us out?"

12. **Reid** answered, "Tracy came to help us with our office work and in my observance of her, and I found her to be a very intelligent, very hard working individual. Someone who's willing to learn, someone willing to take on a new project and run with it. I like her initiative. I like the fact that she's dependable and she's a go-getter. Now, as far as her experience in community outreach, that's something that we are going to be growing as she continues in the job. She is not a regular employee, but actually, she is in an 'extra help' special funded position. We are looking at this for two months. After that, we don't know how that's going to play out, but from our observance of her, I'm satisfied with what she can do and what's she's able to do. I'm going to be working closely with her, and if you are a member of the Board doing community outreach you will be working with her as well. Any concerns that you have we will address."
13. **Williams**, "I'm only asking because I know that Ms. Walker was with us for a minute there, and there was a contract involved and since then, I've seen Ms. Walker in different meetings giving presentations on different aspects of the city. I'm just looking out for the security of the Board that's all."
14. **Reid**: "Thank you for that question, but Ms. Walker is no longer with us because she was under a short-term contract and Tracy is in an extra help position. Two different positions and two different functions. Here it is, like I told the board when I first started, this is a new day. I said the same thing to the City Council at the meeting this morning. Our staff, you guys, we're trying to take this thing in a different direction. We're just moving forward with what we need to do and we're going to keep on moving but I appreciate those concerns because I will take those concerns to heart and make those adjustments as we need to make them. That concludes my report."

INTAKE REPORT FOR APRIL 2013

Investigator Robertson reported on the number of complaints received for the month of April 2013. **Robertson** reported that a total of ten (10) complaints were received for the month and they are listed as follows:

1. Complaint Number: ACRB 13-23, Ellery Poole alleging Inaccurate Police Report
Mr. Poole alleged that on February 16, 2013, Officer Joseph Sobocinski failed to include all the facts in his report concerning an incident that occurred at Grady Hospital between him and a security officer.

Recommend dismissal because the allegation falls outside the Board's jurisdiction.

2. Complaint Number: ACRB 13-24, Shake Freeman alleging False Arrest
Mr. Freeman alleges that on March 26, 2013, he was falsely arrested by APD for entering Atlanta City Hall.

Preliminary investigation revealed that an employee, who is located in City Hall, has a temporary restraining order against Mr. Freeman. The executive director advised Mr. Freeman to file a complaint via ACRB website. He refused and wanted to come to City Hall and file in person.

Recommend dismissal. Mr. Freeman failed to file a complaint form that is required by city ordinance.

3. Complaint Number: ACRB 13-25, Dennis Long alleging Constitutional Violations

Mr. Long, an inmate at Hancock State Prison, alleges that the prison officials are not addressing his health issues. He stated that on March 30, 2013, his cell was painted and he got sick from the fumes and had to seek medical treatment. He said the prison officials placed him back into that particular cell against the medical staff's orders.

Recommend dismissal because the allegation falls outside the Board's jurisdiction.

4. Complaint Number: ACRB 13-26, Derrick Kemp alleging Excessive Force

Mr. Kemp alleges that on December 2012, Officer Richard Register choked him during an arrest.

Mr. Kemp was mailed a complaint form to complete and return. Recommend investigation as an excessive force complaint if a signed complaint is received within the next few weeks.

5. Complaint Number: ACRB 13-27, Aleda McNeill alleging Rude Behavior/Providing False Information

Ms. McNeill alleges that on March 15, 2013, Sergeant D'Andrea Price at APD's Police Academy was very rude towards her. She feels that Sgt. Price treated her this way because her daughter has filed an EEOC complaint against the Dept. She further alleges that Sergeant Janice Sturdivant falsely told individuals at police headquarters that she had filed a complaint with the Chief.

Recommend dismissal because the allegation falls outside the Board's jurisdiction.

6. Complaint Number: ACRB 13-28, Biniyam Habteab alleging Harassment

Mr. Habteab alleges that he is being harassed by APD. Mr. Habteab claims that since March 2012, Zone 3 officers have been following him and tapping his phone lines because his former neighbor falsely reported to them that he is involved in illegal activity. Mr. Habteab does not have any information that can help identify the officers involved. He said that he is leaving Georgia at the end of May 2013. He said he knows that ACRB would have difficulty investigating his complaint due to lack of information. He said he wants his complaint on file in case something happens to him prior to his departure.

Recommend dismissal for lack of information.

7. Compliant Number: ACRB 13-29, Clinton Wilson alleging False Arrest

Mr. Wilson alleges that APD falsely arrested him on December 12, 2012 and April 20, 2013.

Preliminary investigation revealed that both of Mr. Wilson's cases are pending adjudication in the courts and the investigation into the false allegation will depend on its outcome. Therefore, recommend suspension of the investigation pending the adjudication.

8. Complaint Number: ACRB 13-30, Linda Hinton alleging False Arrest

Ms. Hinton alleges that she was falsely arrested by APD in 1996, 2005 and 2008.

Recommend dismissal because the incidents occurred outside the 180 day time limit imposed by ordinance.

9. Complaint Number: ACRB 13-31, Duane Blocker alleging False Arrest

Mr. Blocker alleges that he was falsely arrested by APD on April 7, 2013.

Preliminary investigation revealed that Mr. Blocker's case was bound over to the Fulton County State Court and no date has been set. The investigation into the false arrest allegation will depend on its outcome. Therefore, recommend suspension of the investigation pending the adjudication.

10. Complaint Number: ACRB 13-32, Nadine Haynes alleging False Arrest

Ms. Haynes wrote a letter on behalf of her friend, Donald Kronos, alleging that he was falsely arrested by APD on January 20, 2012 at the Hartsfield-Jackson International Airport.

Ms. Haynes was sent a complaint form for Mr. Kronos to complete and return. However, even if signed form is received, the arrest occurred over a year ago and is outside the 180 day time limit imposed by ordinance. Therefore, recommend dismissal.

Questions & comments...

1. **Williams** asked about complaint No. 13-25. He asked, "This complaint is from Sparta, Georgia. Mr. Long, how did he get wind of us? How did he report that?"
2. **Robertson:** I have no idea. We have another case from someone that's at the Hancock State Prison, but he filed his complaint when he was actually here, and I haven't been able to go to Hancock to even interview that person because we are having problems with the warden there. He's refusing to allow us to come to his prison to interview that particular person, or any inmates. So Mr. **Reid** is in the process of discussing that with the attorney general's office to see if whether or not we can get someone to make him let us come into his facility. He (warden) actually said "No, and only if someone makes me do it." So based on that, I wasn't able to get that information for you."
3. **Williams** said, "I'll hook it up, thank you."
4. Regarding complaint No. 13-27, **Bartels** asked, "Ms. McNeil alleged that the Sergeant at the police academy was very rude towards her. I know we're not really authorized to investigate. Rude, falls out of our jurisdiction, but we are authorized to investigate complaints of beliefs of abusive language. Do you think it could possibly rise to that level?"
5. **Robertson:** "Well, she said it was just the way that she spoke to her. It wasn't anything like the use of profanity or anything like that. She just said it was the 'way' that she talked to her."
6. **Bartels:** "Yes, if it's not verbal communication we can't investigate it."
7. **Robertson,** "Right. She came straight to our office to file a complaint. I talked to her about it and she was very emotional about it and very upset. Also, I told her there's another avenue that she could go to OPS, but because they've already filed an EEOC claim against the department, she doesn't feel comfortable going to OPS."
8. **Bozarth:** "Question of the same complaint, is Ms. McNeil a cadet in the academy or, how is she connected?"
9. **Robertson:** "Her daughter was a recruit back in August of last year."
10. **Williams** commented, "I just have a comment to Sheena and Lee. The fact that this is what I speak about...skating around situations and the need for departments and agencies like ours. Okay, because the need is out there. I've travelled everywhere and I will be going to Sparta pretty soon. I challenge, so you all might have to come get me."
11. **Lee** asked, "With regards to complaint number 13-28, Biniyam Habteab, he's filed a harassment claim and I believe you suggested dismissal for lack of information. Was there a way to obtain more detail about his situation, because it is a little suspicious?"
12. **Robertson** responded, "He couldn't give me anything to go on. He had no descriptions of any officers, no license plate numbers, no patrol car numbers, no times, nothing. Also, when I called to schedule an appointment with him, the City's main number shows up and not my desk telephone number. When he saw the city number, he thought it was APD masquerading as me. He didn't believe I was calling him but I tried to explain to him that when I call from my work desk, the City's main number appears and not my direct phone number. I think a

little bit of it is also paranoia. He is not elderly. He is middle aged. Also, he did say that he was leaving the state of Georgia at the end of the month. He said he did understand that we wouldn't probably be able to do anything with his case. He just wanted something on record and to file with somebody in case something happens to him."

13. **Bartels**, "If he could give us more information, I think we'd be glad to take it but without anything, there isn't much we can do."

Following the discussion, the motion was called. It was moved by **Morris** to accept the staff's report and recommendations. **Lee** seconded and hearing no further discussion the motion was approved.

DISMISSAL OF COMPLAINTS

*It should be noted that the **Chair** was petitioned by staff to amend the agenda to include a case dismissal: ACRB Complaint No. 12-64. A memo of explanation was included in the Board packets.*

ACRB COMPLAINT NO. 12-46, SENTASHA WILLIAMS

Investigator **Lively** made the request to dismiss the complaint #12-46 due to the complainant's lack of cooperation. He reported that SentAsha Williams filed a complaint with ACRB dated December 12, 2012 stating that an Atlanta police officer had falsely arrested her. Although Ms. Williams appeared at the ACRB office for an interview on December 6, 2013, staff was unable to do the interview because she refused to comply with the standard interview process.

However, in an effort to continue with the investigation, Investigator **Lively** attempted to contact her to determine whether she wanted to continue with the complaint and comply with the process. Many subsequent attempts were made to contact Ms. Williams via telephone, mail and email. When the investigator was able to talk with Ms. Williams on two separate occasions, she hung up on him.

Investigator **Lively** determined that the allegations in this complaint could not be properly investigated without the cooperation of Ms. Williams; therefore, it is staff's recommendation that the Board dismiss the complaint.

Questions and Comments...

1. **Williams** asked, "What part of town does she stay in because we've had a case like this before when somebody got arrested just for standing on the sidewalk."
2. **Lively** indicated that he couldn't recall exactly where she lived, but it was somewhere in the downtown area. "I think it is Zone 5 if I'm not mistaken. I'm not really sure. I can't remember the exact address."

Following the brief discussion, it was moved by **Morris** to accept staff recommendation to dismiss the complaint. **Harrison** seconded the motion. Hearing no further discussion, the vote was called and the motion was approved with one nay vote (**Williams**).

REVIEW OF COMPLAINTS:

A. ACRB CASE NO 12.-11, DANIEL WOLCOTT

Special Note: This case was deferred at the last meeting for additional research.

Chair Bartels stated, "Mr. Wolcott's complaint against four Atlanta police officers was rescheduled last month for some research to be done, because a number of us on the Board, including myself, had

questions about whether it could possibly be a false arrest case. The question was whether police have the authority to detained passengers during traffic stops as well as the driver. Staff did some research as well as Ms. **Benson**. What they found is under federal law and Georgia law, the police, if they make an otherwise valid traffic stop, they are only allowed to detain not only the driver but the passengers as well, I believe, to check if there's any outstanding warrants, as well as, what they call officer's safety considerations. That question having been resolved we've got to turn to the essential question, which is whether the excessive force complaint should be sustained or not sustained, whatever. There is a fairly high volume of information on this case. I'd like to hear everybody's thoughts on this case."

Discussion and Questions...

1. **Benson** stated, "I understand that Mr. Wolcott and his father are present. Does Mr. Wolcott want to address the Board about the situation?"

Special Note: It should be noted that Wolcott indicated that he preferred to wait to speak.

The **Chair** also noted that public comments are heard at the end of the meeting.

2. **Williams** stated, "I would like to make a comment on the fact that Ruth (**Price**), she isn't here, but she called me and shared her opinion and consideration about this particular case, and the fact that she knows what side she usually appears to be on. But in this case, with all the injuries that were done in this particular situation, she wanted the Board to know that she didn't think that it was right for the officer to go to the extremes that he did."
3. **Bartels**, "I would say quite honestly, I've read what we had...I've thought about this and to be candid, I've commented on it back and forth regarding this, because I think there are arguments obviously to be made on both sides. I would like to draw everybody's attention to just a couple of factors that have factored into my thoughts on the case. On page four during the interview of Mr. Wolcott, I thought it was significant that Officer Thornton, who was the main officer that the complaint was against, said he (Wolcott), was very verbal about not wanting to be at the hospital. I don't think we should reset this for further research but in America, you have the right to refuse medical treatment. One question I would have is if Mr. Wolcott was very verbal about not wanting medical treatment, why..."
4. **Robertson** explained, "The jail would not accept him without going to Grady. They're going to send him right to Grady. They won't accept him with the injuries that he had."
5. **Bartels** asked if Grady had a detention unit and **Robertson** responded that the hospital does have a detention unit.
6. **Bartels** said, "My point is people do have the right to refuse medical treatment. If the jail won't accept them then that's their policy, but they actually can say that. That's one thing that struck me. The other thing that struck me and that I have taken under consideration is Ms. Moulinex. Apparently, you weren't able to interview her but did get a copy of the statement she made to OPS. And to OPS, she stated that officers were seen dancing in the street, grabbed her and the officer knocked Wolcott out. I would note that that particular officer is not named; however, there's only one officer that did acknowledge striking Mr. Wolcott, and that's Officer Thornton. The witness also stated that she saw Officer Thornton place a knee in Mr. Wolcott's back, and that he was not combative. I've never believed in placing a knee in someone's back if you're not combative. I would think that that is excessive and I think her statement does provide some corroboration. I think at this point, my inclination would be to vote for sustain, but I think it's something that we'd like to hear you all express how you think."
7. **Benson** commented on a note in the complainant's medical records made by the attending physician. She reads, "**This patient is one of the most disrespectful patients I've seen in my career to the emergency staff, paramedics and with police...spitting, cursing...evidence of head injury**" and then she goes on to talk about these other injuries. I do have several

- questions, not only about the stop, but just about what happened at the hospital, which is why I'd like to get some more information from Mr. Wolcott before giving an opinion.”
8. **Bartels** asked Director **Reid**, “Is that a practice for some citizen review boards to get information from the complainant when the complaint is physically presented?”
 9. **Reid** responded, “That is the practice of some boards, but I guess the bigger question is what practice do you guys want to set for yourselves?”
 10. **Bozarth** added, “Since the complainant is here, I think it would be appropriate to hear what he has to say to deliberate this case. Otherwise, his statement comes after the decision and that really doesn't seem to make any sense to me.”
 11. **Bartels**, “Well, the other option is to reset the case again and allow staff a chance to get additional information. I think that, and I can't speak for Mr. Wolcott, but I think a lot of people might be more comfortable speaking in private as opposed to in public.”
 12. **Harrison**, “Mr. **Reid**, what do our by-laws say with regards to public people at our meeting?”
 13. **Reid** answered: “Your ordinance says that you have the authority to conduct a hearing, which the process that we are doing now is not necessarily what is stated in the ordinance. This is more of a review type of situation. If you were having a hearing, you'll be swearing in the individuals and going that route.”
 14. **Harrison**, “And that's what our by-laws say with regards to speaking before the Board?”
 15. **Reid**, “Yes, to my recollection that is correct. I would say if you have questions that you want to ask the complainant, the more suitable way to find out the true process would be to submit those questions to the staff and have the staff interview him. It would delay the case, but I think that would be a way of staying consistent with what you're doing.”
 16. **Bartels**, “I would tend to agree. I think that if we're going to have a hearing in public I'm not necessarily opposed to that, and clearly in some cases it is appropriate. We don't really have a policy or procedure for doing that right now, and I don't think it's something that I really feel comfortable making up right on the spot as we go along.”
 17. **Reid** said, “I would add to that, I think one of the things we want to keep in mind if we were to proceed with asking him questions, the complainant may say something that will need to have a follow up question with the officer. If you're just making a decision based off of what one party said and not even follow-up on those things that you base that decision off of with the other party, we'll run into the fairness issue.”
 18. **Bozarth**, “Under the circumstances, why don't we defer the decision on this at this time, and then during public comments, hear what Mr. Wolcott has to say and move on from there.”
 19. **Reid**, “As you know, all citizens have a right to make a statement during public comments. I think if you are going to make a decision, the decision should be made prior to the comments. Because again, you are making this decision without the officer having an opportunity to get his feedback on what is being said as well.”
 20. **Bozarth** clarified, “My recommendation was to defer any decision we would make until June.”
 21. **Reid**, “Okay, you mean with the additional examination of the record and things of that nature.”
 22. **Benson**, “Was the officer also made aware of the meeting and date? Could he have been here?”
 23. **Reid** responded, “No, we don't send out notifications for anyone to attend.”
 24. **Harrison**, “I want to be clear about what is before the Board. We are only considering an excessive force case right now, correct?”
 25. **Bartels** responded, “Yes, sir.”

Following the discussion, **Bozarth** moved to defer the decision on this case and move on to the next case and during public comment hear from Mr. Wolcott at that time. The motion was seconded by **Morris**. No further discussion the motion was approved with one nay vote (**Harrison**).

B. ACRB CASE NO 13-05, MICHAEL BROADNAX

Chair Bartels summarized the complaint. **Sheena Robertson** investigated the complaint.

Bartels, "Complaint No. 13-05 was filed by Michael Broadnax. It involves APD Officer Antoine Hart. The allegation is false arrest. Mr. Broadnax was arrested for disorderly conduct, allegedly for smoking crack in a high drug area. I believe it falls under the part of the disorderly conduct ordinance that prohibits being in a high drug area with the intent to use, which I'm not sure that's constitutional, but that's not what we're here to decide. The officer's allegation is the crack pipe was smashed before he could retrieve it for evidence and Mr. Broadnax denies that. The staff's recommendation is not to sustain the complaint of false arrest. Any discussion? Is there a motion?"

Discussion & Questions...

1. **Benson**, "Did you guys have an opportunity to interview the officer?"
2. **Robertson**: "Yes."
3. **Benson**, "Did he have any remnants of this crack pipe? Did he pick up any pieces of the glass or was he able to test for any type of drugs?"
4. **Robertson**, "No. He said it was totally destroyed. It smashed to the ground. It was a glass pipe."
5. **Harrison**, "This question is to the staff. In your investigation of this particular incident, is there any resemblance of this type of behavior with APD and other arresting situations such as homeless people being arrested and they can't find the evidence?"
6. **Robertson**, "Are you asking if we have other cases similar to that? No."
7. **Bartels**, "Did the officer indicate whether or not Mr. Broadnax stepped on the pipe or he just said it shattered on the ground?"
8. **Robertson**, "No he didn't say that. No. He just threw it down on the ground and it shattered into small pieces."
9. **Lee**, "On page four, what we have is that the officer says that he observed him throw the crack pipe to the ground and he observed him exiting the vehicle, but there's nothing to follow up with."
10. **Williams** asked, "So, this officer did not have his camera on the car?"
11. **Robertson**: "He didn't have in-car video in his patrol car. No."
12. **Bartels**, "I've had some officers in the same situation and they have their cell phones with them, and the iPad cases. The officers use their cell phones just to take a picture of evidence that was on the ground or whatever for what that's worth."
13. **Williams**, "Today's technology and how they talk about having big brother on your shoulder or big brother on the dashboard. So my guess you'd have had this camera on."
14. **Bartels**, "My experience with APD is the only cars that actually have video cameras from my understanding are DUI Task Force. Is that correct, Major Dancy?"
15. Major Dancy (APD), "DUI Task Force does have cameras, but most of the police cars now have cameras on them but not a 100% yet."
16. **Williams**, "Are they also moving cameras to the shoulders or something or on the helmet or something?"
17. Major Dancy, "At this point just in the vehicle. There have been some discussion about additional video, but only it's only preliminary discussion at this point."
18. **Lee**, "Were there other complaints filed by the complainant against this officer?"
19. **Robertson**: "No. He's filed other complaints but against different officers."
20. **Bozarth**, "I just want to make a comment. I'm inclined to agree with staff recommendation. That's what we have to conclude then, with the evidence at hand there's nothing really to support an absolute false arrest. The possibility seems to be is that he was simply being harassed and doesn't have the evidence to support that."

Following the discussion, The **Chair** entertained a motion.

Bozarth motioned to accept staff's recommendation to **not sustain**. The motion was seconded by **Morris**. The vote was called and the motion failed with four nay votes (**Williams, Benson, Harrison, Lee**).

Special Note: It should be noted, before a second motion was made, the next case for review was moved up for discussion with the board deciding to come back to case No. 13-05.

C. ACRB COMPLAINT NO. 12-10, FRANK STRICKLAND

Summarizing the complaint, the **Chair** said that complaint #12-10 was filed by Mr. Frank Strickland against APD Officers Brian Stay alleging false arrest and abusive language. The allegation is Mr. Strickland attempted to cut somebody with a knife. He was charged with aggravated assault. He did end up entering a guilty plea in Fulton County Superior Court. I'm not sure how much this count, but I did notice looking through the paperwork, the indictment was signed for a guilty plea. He signed the guilty plea but it says Alford vs. North Carolina. That is what we call an Alford Plea. It means that somebody enters a guilty plea because they believe it's in their best interest, but they're not admitting to the allegations. I don't think we could use the guilty plea to say what he's admitting in these allegations. My inclination is to accept staff's recommendation, because without the guilty plea it's one person's word against another. There is some corroboration from the statements with the 911 call and the witness as stated. Any discussion?"

Discussion & Questions...

1. To clarify, **Bozarth** asked, "Are you saying that the witnesses sustained the position of the officer or the complainant?"
2. **Bartels**, "The witness has identified, according to the officer, Mr. Strickland as the individual that attempted to assault the officer."
3. **Bozarth**, "And there are three witnesses basically saying the same thing, right?"
4. **Bartels**, "Correct, and they are listed on indictment."
5. **Bozarth**, "As I read this complaint I'm fairly comfortable with the complaint of false arrest should be dismissed or not sustained. The other one is a different discussion."

The **Chair** opened the floor for a motion regarding the first allegation of false arrest.

Allegation of False Arrest

It was moved by **Harrison** to accept staff recommendation to **not sustain** the false arrest allegation. **Morris** seconded the motion. Hearing no further discussion, the vote was called. The motion was approved with two nay votes (**Williams and Benson**).

Allegation of Abusive Language

It was moved by **Morris** to accept staff recommendation to **not sustain** the false arrest allegation. **Harrison** seconded the motion. Hearing no further discussion, the vote was called. The motion was approved with one nay vote (**Williams**) and one abstention (**Benson**) with no explanation provided.

D. DISCUSSION AND VOTE REGARDING ACRB CASE NO 13-05 MICHAEL BROADNAX

Comment...

Lee said, "In looking at this, I want to oppose. Primarily, because I would like to see a couple more questions answered in this case, because it looks like we don't believe the staff's view here, because this is a false arrest claim and it says, "Arrest by police officer of the wrong person without probable cause that believe that a crime's been committed." I kind of highlighted some facts that stuck out to me to get to this point in that the person who filed this complaint, he was the one who suggested that they look at the car on the video, but obviously

that car didn't have a video. Going a little bit deeper, the fact that there wasn't anything on him when they got him to jail, and that the officer didn't have a picture or pick up any of this. I don't feel comfortable with voting that the officer had probable cause in this case. I'm not certain on it, but I would like to oppose it at this point."

The *Chair* opened the floor for a motion.

Regarding complaint No. 13-05, Michael Broadnax, *Harrison* moved to assign a finding of **sustain** to the false arrest allegation against APD Officer Antoine Hart. The motion was seconded by *Williams*. Hearing no further discussion, the motion was approved with one nay vote (*Morris*).

E. DISCIPLINARY RECOMMENDATION FOR COMPLAINT NO. 13-05

Investigator Robertson stated, "The discipline would be considered a category 'A,' however, I need to read his disciplinary file, unless you don't need that information."

Bartels indicated that in his opinion it is relevant to have the officer history before deciding discipline.

Harrison moved to put off the disciplinary action until the next meeting until such information is available. *Lee* seconded the motion. No further discussion, the motion was approved.

PUBLIC COMMENTS

Two citizens signed up to speak.

A. First speaker: Mr. Andrew Wolcott

"First, I'd like to give appreciation to the Board for reviewing the case. I understand that you guys have some questions and comments in regards, and on that note, I make myself open and freely available to the investigator staff to answer any questions that you might have."

"So, just to highlight three things: I make myself readily available to the staff members to answer any questions that may come up. As far as the medical issue or being rude, in that sense, I would encourage the Board or the investigator staff members to look into people's behavior and traumatic brain events. Also take a review and look at the marijuana evidence and consideration to the statement given by Ms. Moulinex, as far as the chain of custody. With her being place in the vehicle behind me and her statement that they asked her or accused her that the marijuana belonged to her and she said "No it's not, it belongs to you" and then the officers giving her the statement that "You're right. It's ours now". So, you've got two people placed in the same vehicle, there's a chain of custody issue there. I think that would be an important matter to look into. I'm, open to any questions, comments and through the staff and just them to get a hold of me. You have my phone and email. I'll be readily available. Thank you."

B. Second speaker: Mr. Scott Wolcott

"Thank you for taking the time to hear me out and I appreciate exactly what you guys do because I'm sure it's difficult to come to some decisions. How I got interested in this was reading the reports on this and they didn't make any sense."

"Andrew's comment about traumatic head injuries is a matter of fact. I would recommend that this Board talk to a neurosurgeon. You guys know that there have been football players who have, down the road, committed suicide or tried to take their life. People who get hit in the brain or have a

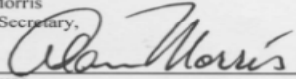
concussion where that brain does hits the wall of it, those people generally are not responsible for what they say, what they do, so forth and so on. In fact, I was really kind of shocked when I read the medical report because it is a medical fact that anybody who's diagnosed with a concussion, you don't sedate them. The purpose of that is because they want to make sure that you're fully wide awake. So I got involved in it. I pulled the personnel file. I saw the records of the officer, where what he was accusing was sustained on certain cases. Regarding his background, he appears to be a very zealous type fellow, over reactionary type guy. That's why I ended up filing a complaint with you."

"I know Andrew because he's my son. I know he's not a violent person and I also know this too, when you have the charge of marijuana that the police say that they found, and the medical report says there's no drugs in that individual's system, my common thought would be why would somebody have marijuana or any type of drug? And that's stuff that was supported on the drug screen. Thanks for what you do."

The *Chair* thanked the Wolcott's for their comments.

ADJOURNMENT

Chair Bartels entertained a motion to end the meeting. *Harrison* moved to adjourn. The meeting adjourned at 7:58 p.m.

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

Signature
June 13, 2013