



**ATLANTA CITIZEN REVIEW BOARD**

**OCTOBER MEETING MINUTES**

55 Trinity Avenue, SW, Committee Room Two

Atlanta, Georgia 30303

November 8, 2012 / 6:30 P.M

**ROLL CALL**

*(Eleven Members of the Board)*

**ACTIVE MEMBERS PRESENT**

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

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

**BILL BOZARTH** *(Bozarth)*

**ALAN MORRIS** *(Morris)*

**WILLIAM HARRISON** *(Harrison)*

**RUTH PRICE** *(Price)*

**BARBARA HUBBARD** *(Hubbard)*

**ACTIVE MEMBERS ABSENT**

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

**LABRIAH LEE** *(Lee)*

**MACEO WILLIAMS** *(Williams)*

**ONE VACANT APPOINTMENT**

*Atlanta Business League (vacant 4 month)*

**STAFF ATTENDEES**

**SAMUEL LEE REID** *(Reid)*, Executive Director; **KENNETH LIVELY** *(Lively)*, Investigator; **SHEENA ROBERTSON** *(Robertson)*, Investigator; **MYOLA SMITH** *(Smith)*, Recorder and Transcriber

**A G E N D A**

**MEETING CALLED TO ORDER**

There was a delay starting the meeting due to a lack of quorum. It was later called to order by **Chair Bartels** at 6:45 p.m. He welcomed citizens announcing Public Comments will be heard later into the agenda, and if anyone cared to speak, to please sign up. Comments are limited to three (3) minutes per person.

The **Chair** also welcomed members of the Atlanta Police Department (APD), Office of Internal Affairs: Major Elder Dancy and members of his staff. On behalf of the Board, **Chair Bartels** expressed condolences to APD for the loss of the two officers who were recently killed in an accident. "It was a real tragedy and our sympathy certainly goes out to the officers and their families."

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### **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. However, since the minutes were not available for advance review due to technical difficulties, the *Chair* recommended tabling the minutes until the next meeting to allow more time for review and careful consideration.

*Harrison* moved to table the minutes until the December meeting. The motion was seconded by *Morris*. No further discussion, the motion was approved by all.

Following the motion, *Chair Bartels* explained that both October and November minutes will be considered at the December meeting.

Also, the *Chair* added. “I do appreciate everyone showing up tonight. I know that traffic is pretty bad out there. Just as a reminder, and most of you are real good about this, but if you don’t believe you are going to be able to make it, just send me an email and let me know. I normally come here straight from the office and my email is open all day and if you send me an email, I am going to get it within an hour or two. Send it even if it is short notice, same day, but just let us know so that way we won’t be waiting around and we will be able to start fairly early.”

### **EXECUTIVE DIRECTOR REPORT**

*Director Reid* also expressed condolences to the families of the two fallen APD officers, Richard Helper and Shawn Smiley. “The board and staff sent letters to Chief Turner, Majors Dancy and Moore expressing our condolences.”

Highlights from his report:

#### **A. Introduction of New Investigator**

*Reid* introduced Kenneth Lively as the new investigator. “We are lucky to have Mr. Lively. He has the experience we have been looking for. He was with the DeKalb Police Department and the Stone Mountain Police Department. He also worked with the New York Citizen Review Board doing investigations. We have both viewpoints and sides and he is a good fit for the office to match what we have legally in there and the real world experience. We are glad to have him on board.”

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

*Reid* reported that at the last meeting, there was a supervisory issue raised and he suggested that the Board remand the issue back to the staff so that staff could do two things:

- 1. look further into what standard the ACRB should hold or like to see supervisors held to, and*
- 2. do more research as it relates to how to handle supervisory issues.*

His thoughts were, by doing this, the body could move forward with a clear statement of what the Board will be looking at when discussing supervisors and the role they play.

To update the Board on this matter, *Reid* said, “We are still researching that issue and once the research is completed, we will then come forward to the Board with some recommendations.”

#### **C. TRAINING**

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Last month, two days were set aside to train the board on officer discretion and five out of eleven members attended. *Reid* expressed the importance of each member participating in the training. “Board members are going to have to attend the training. I know it is hard trying to schedule these things in with your personal schedules but training is really going to be important. What I have decided is that we are not going to have training in November and December. I have taken this into account for the holidays. We can just work on getting the training schedule right to let you work it in with your calendars. In January and February we should be able to catch up. I realize that many people will be moving about, but I will continue to stress the need for training because the by-laws indicate that everyone should receive training within six months of confirmation on the board.”

### **D. EXECUTIVE DIRECTOR RECEPTION**

*Reid* reported on the Executive Director Reception that was held October 30<sup>th</sup>. Following the reception, *Reid* addressed the members of the City Council Public Safety Committee. A copy of the presentation and strategic plan, presented at the committee meeting, was included in the board packets. Referring to the strategic plan, *Reid* said, “This is basically, our plan of how we in the office, see things happening. I will constantly come to you for your support and ideas on it to make this the best citizen oversight and deliver what the officers and citizens expect.”

### **E. COMMUNITY OUTREACH**

*Reid* reported that he and Maceo *Williams* attended the Pittsburg Community Fall Festival for Youth. “We had a good time. We saw APD officers doing community outreach and there was a good representation of the city from both sides participating in the event.”

### **F. VALUES AND MISSION STATEMENT**

*Reid* stated, “When I first started, my staff and I sat down and started talking about our mission statement, values and goals. For the next few months I want to just mention and focus on two of those values:

- Integrity – Recognizing and acknowledging that citizens expect us to do our best work, use our best methods and do what we say we will do and stay true to the reason for our existence. We will end each day with our integrity intact.
- Credibility – Recognize and acknowledge that our action tell more about us than our words. We need to consistently do the right thing at the right time.

### **G. POLICY ADVISORY COMMITTEE**

*Reid* is recommending that the board establish a Policy Advisory Committee with at least three board members. Referring to committees in general and how they benefit the board, he said, “I believe that this is a necessary step especially, for the work that we are trying to accomplish. I will work with the committee because there are some things that I think we have to start looking into and fulfilling the other part of our mission in essence. The reactive side is the yearly complaints and the proactive side is when you look at things before hand and you try to make suggestions and recommendations. We need to start fulfilling that side of the mission.”

*Reid* indicated that if the board decides to establish committees, guidelines and recommendations have been is included in the board packets for consideration in forming the committees.

### **H. BOARD RECOGNITION**

In an effort to show appreciation and recognition for the work members are doing, *Reid* shared these remarks, “I thought long and hard about the commitment that you make. You are not paid for this commitment and you are not really recognize in any type of way; so every quarter, I would like to recognize a board member whose demonstrated the qualities we are looking for in a

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board member, *i.e., being attentive, taking the initiative, being professional*. I will send out information about this but starting in December, I would like to recognize one or two board members for this first quarter...July, August, September and do the same things for the remaining quarters in the current fiscal year. At the end of the fiscal year, we will then recognize the Outstanding Board Member of the Year.”

### **NACOLE CONFERENCE PRELIMINARY REPORT**

**Vice Chair Harrison** provided the report. He said, “I, Maceo *Williams* and Ms. *Price* attended the NACOLE conference in San Diego. NACOLE hands out these slip drives and put all the power points and all the information that they cover during the three to four day conference on that drive. What I have done for the board is asked staff to make a copy of the drive for each member to receive and if you will look at it and read and go over the things we actually did at the conference. It was a good conference and at our next board meeting, each attendee will have a portion to go over and explain to the board with regards to what exactly the conference was about...the participation, the classes we went to and the speakers we heard. You will have a full detail report at the December meeting.”

### **INTAKE REPORT FOR SEPTEMBER 2012**

*Investigator Robertson* reported on the number of complaints received for the month of November 2012. *Robertson* reported that a total of five (5) complaints were received for the month and they are listed as follows:

#### Complaint Number: 12-51, Joe London alleging False Arrest

Mr. London alleges that on August 12, 2012, APD Officer Desmond Wareham falsely arrested and charged him robbery.

Preliminary investigation revealed that Mr. London’s criminal case is still pending adjudication in the Fulton County Superior Court and the investigation into the false arrest allegation will depend on the outcome of his case. Therefore, recommend suspension of the investigation pending the court’s adjudication.

#### Complaint Number: 12-52, Al Bartell alleging Other

Mr. Bartell requests a restorative compensation and public policy hearing regarding APD's CID Division. He believes that CID could have prevented the murders of two individuals if they had properly executed a search warrant that had been issued for the accused three days prior to the murders.

Mr. Bartell was referred to OPS. Recommend dismissal because the allegation is outside the Board's jurisdiction.

#### Complaint Number: 12-53, Wendy Brown alleging Excessive Force & False Arrest

Ms. Brown alleges that on October 2, 2012, APD Officer Anthony Blair falsely arrested and charged her with disorderly conduct. She also alleges that Officer Blair shot and killed her dog for no justifiable reason and used excessive force against her.

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Recommend investigation as an excessive force and possibly a false arrest complaint. Preliminary investigation revealed that Ms. Brown’s criminal case is still pending adjudication in the Fulton County State Court and the false arrest allegation will depend on the outcome of her case. Therefore, recommend suspension of the investigation pending the adjudication.

### Complaint Number: 12-54, Don Bridges alleging False Arrest

Mr. Bridges alleges that on May 9, 2012, a Union City Police Officer falsely arrested and charged him with aggravated battery.

Recommend dismissal because the allegation is against a Union City Police Officer and is outside the Board’s jurisdiction.

### Complaint Number: 12-55, James Clark alleging Discrimination

Mr. Clark alleges that on October 21, 2012, while at the Piedmont Park AIDS Walk, he observed two unidentified APD Officers ticketing cars. He said those vehicles were parked on the street where there were no markings or any clear markings to indicate that no parking was allowed. He believes that the officers were ticketing those vehicles because they were participating in the AIDS walk.

Recommend dismissal because the allegation is outside the Board’s jurisdiction.

## **RECONSIDERATION OF COMPLAINT FROM SEPTEMBER 2012 INTAKE REPORT**

### Complaint Number: 12-49, Sabrina Palmer alleging False Imprisonment

Ms. Palmer alleges that on September 25, 2012, APD Officers illegally stopped and cited her for speeding. She believes that she was stereotyped because of the make and model of her vehicle. Preliminary investigation revealed that Ms. Palmer’s case is pending adjudication in the Fulton County State Court.

Recommend investigation as a False Imprisonment allegation.

***Total ACRB Complaints received from January 2012 to October 2012 is 55.***

#### *Discussion...*

- 1. In reference to ACRB Complaint #12-55, **Bozarth** asked, “Is a parking ticket not in our jurisdiction? Is that because we don’t have a definition in our list or is it not in our jurisdiction? Was this an Atlanta Police Department officer in question or was it part of the independent parking meter company?”*
- 2. **Robertson** responded, “According to his complaint, it was APD. His allegation was discrimination. He felt they were only doing that because they were participating in the AIDS Walk.”*

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

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**Special Note:** *Robertson* announced that there will be a Holiday Reception for the board following next month's meeting. "You will have only one case to review and we hope everyone will come and enjoy yourself. APD guest you are also invited."

### **REVIEW OF CASES:**

#### **A. COMPLAINT #11-32, LATORIA SCOTT ALLEGING FALSE ARREST**

*Chair Bartels* summarized the complaint indicating that Ms. Scott alleged that Atlanta Police Detective Donna Reith and Officer Shawna Wiggins falsely arrested her.

The *Chair* opened the floor for discussion.

*Discussion...*

1. *Price* stated, "I read the case and I concur with the Family going to counseling. This is a family violence issue where the Mother supposedly slap the child and etc. The way the officers handled the case, I saw absolutely nothing that the officers did not do that followed procedures. I am glad to see that this case has been referred to counseling because an arrest is not going to help that situation."
2. *R. Johnson* added, "I agree with Ms. *Price*. I do also believe that was probably the best steps to take because more than likely, the officers detected that it was an on-going situation and that is why it was probably referred to the detective. My question is typically, how long does the investigation take when they are being interviewed? I think she said she was there for six hours. I don't know all the factors but that was a question I want to ask. Also, I wasn't aware that if we actually spoke with the child as well or did we?"
3. *Robertson* said, "I spoke with her informally, not as an interview but when she came with her mother. We separated them (mother and daughter) and took her out of the room so that she wouldn't be able to hear what her mother was talking about. Ms. Scott didn't really want us to talk to the daughter. She expressed that she has behavioral problems and she has issues and that she didn't really feel comfortable with us questioning her daughter."
4. *Bartels* indicated that would be her (the mother) decision. Her right.
5. *R. Johnson* also asked if the officer noticed any bruising on the child.
6. *Robertson* responded, "No, she didn't indicate that she saw any bruising on her at all."
7. *Bartels* commented, "When the complaint against an officer is exonerated that means that the evidence shows that it did not happen that there was probable cause for this arrest."
8. *Robertson* answered, "It means that it happened but it was justified."
9. *Bartels* stated, "So in this case, it did happen but it was justified under the law. That's helpful and the one point that I would make is I know the staff's recommendation regarding the false arrest complaint against Detective Reith was to exonerate; and the recommendation regarding Wiggins was unfounded. My recommendation would be that both be exonerated. I say that because the 'unfounded' recommendation against Officer Wiggins is based on her not being the arresting officer. This is an interesting illustration because at what moment is somebody actually arrested?"
10. *R. Johnson* stated, "I think that she did state that she willingly went down to headquarters."
11. *Bartels*, "I believe one of the arresting officers said that she said that she willingly went down. I am just basing that on what Ms. Scott said that Officer Wiggins told her that Investigator Reith wanted to talk to her and her daughter at police headquarters and they were transported to that location. Ms. Scott said she was locked in a room with her legs cuffed to a table for approximately six hours. I think case law is pretty clear that when somebody is locked in a room and they are handcuffed to table, they are under arrest at that point, even if they are not formally told. Also, Officer Wiggins said that Ms. Scott was not

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*under arrest and voluntarily came with them but she also said, and I am quoting, “Detective Reith told her to have Ms. Scott and Erica transported to police headquarters so that she could interview them. She did **not** say that Detective Reith said ask Ms. Scott if she wants to come. The detective told them to bring her to bring them to the station. I would say both would be exonerated because when Ms. Scott was put into a police car and taken to location, my thought is she was under arrest; however, based on everyone statements, I believe that even at that moment, there was probable cause for the arrest because there was the report of the officer saying the child had said that Ms. Scott had hit her. The officer is stating that Ms. Scott actually struck the child in her presence and also the 911 call with Ms. Scott’s language is supportive of that as well. My thought is both would be exonerated as opposed to one being exonerated and the other being unfounded.”*

Following the discussion, the following motions were made:

- **False Arrest Allegation against Detective Reith:** It was moved by **Price** to accept the staff recommendation to assign a finding of **exonerated** for false arrest as alleged by Ms. Scott against Detective Reith. **Bozarth** seconded the motion. Hearing no objection, the motion was approved unanimously.
- **False Arrest Allegation against Officer Wiggins:** It was moved by **Price** to accept the staff’s recommendation to assign a finding of **unfounded** for false arrest as alleged by Ms. Scott against Officer Wiggins. **Harrison** seconded the motion. Hearing no objection, the motion was approved with one Ney vote (**Bartels**).

### B. COMPLAINT #12-15, GRACE BOCCHINO ALLEGING FALSE ARREST

**Chair Bartels** summarized the complaint filed by Grace Bocchino alleging that Atlanta Police Officer April White falsely arrested her. The floor was then opened for discussion.

*Discussion...*

1. **Bozarth** indicated that he agree with the recommendation of the staff that the officer should be exonerated; however he said, “I would like to enter this into the discussion and see what the other board members think. This was the case where a person who has left their drivers license at home, which is something I have done and if I ever had an accident, I would be in a similar situation. As a result of this whole scenario, the police department had to spend a great deal of effort processing this woman, going to the hospital, bring her back, putting her in jail and getting her out. If you will, there was an impact on the police officer involved and there was obviously an impact on the complainant that she was detained for some thirty hours. This was not a dangerous situation. Is there a possibility and I don’t know if we have done this before, that somewhere in our judgment we add this simple fact that in my opinion that this could have been handled in a way that would not have for one, impacted the department as much and two, would not have created the incident with the community here. Is there a way that we can say that would not the officer and everyone been served better had the officer made a stronger attempt to actually let this woman get the proof of the license at the station?”
2. **Price** responded, “I think that the officer was very lenient because this lady had absolutely no identification. Not only did she not have a driver’s license, they ran her on TCIC and found no name. They also ran her on NCIC because she said she was from New York and still, there was no name found according to the name that she gave them. I think they acted appropriately. If I had been on the scene, I would have handled it the same way plus I probably would have charged her with not having any identification at all. Georgia Law

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- requires that if you are seventeen or over, you need some identification. They checked on TCIC and NCIC and didn't find anything on her in both. When she went to court and took her license, which is what the judges do, customarily, if you present a license, they will dismiss the case."*
3. **Bozarth** asked, "Did she not have proof of insurance and registration in the car?"
  4. **Price** responded, "That does not mean I have a drivers license. I could let someone use my car and my registration and my insurance is it and it still does not mean that person has a driver's license."
  5. **Bozarth** stated, "The point I am making is was it really necessary to keep this woman in custody for thirty hours?"
  6. **Price** asked, "Was she in custody for thirty hours?"
  7. **Robertson** answered, "The entire process was thirty hours. She went to the hospital and from the hospital she went back to the jail. She was processed in at the jail. So all of this was done and I guess that was the total time."
  8. Responding to **Price's** comment that the complainant was still at fault, **Bozarth** said, "That is true, and if that's the way you can choose to deal with these situations, you can or you can choose to try to find a way to solve it. I would suggest that we entertain the possibility as part of our recommendation that in future cases like this the department be advised that every effort be made to find the identification as oppose to just simply moving on."
  9. **Bartels** asked, "Can you think of anything that the officers should have done differently in the case?"
  10. **Price** said, "I understand that the lady said she lived about two miles away from where she was confronted by the police for having an accident. I think it would be up to the officer and depending on how busy my zone was and how many calls were holding and do I need to transport a citizen home to get her driver's license. Sure it's discretionary, but if every citizen you stop because they are involved in an accident or for any reason, if I have to go out of the way to take you home and all these things, I really think you are just asking too much of the officer that is not the police department's function to take people home to get what they should have had."
  11. **Bartels**, "Well I think it would depend on the facts of the circumstance and especially, how much time is available but we can always make a recommendation to the effect that all officers in traffic stops, given the particular facts of the situation, do what is reasonably possible in order to avoid taking somebody into custody."
  12. **Price**, "I worry and I don't think we should be making that kind of broad recommendation because every situation is different and citizens have a responsibility to obey the law just like officers have the responsibility to enforce the law in a very professional way and there was nothing here that indicates that this officer was not courteous and she went out of her way and ran several checks to find out who she was but nothing showed up on the name that she gave. If she had some type of identification, she probably would have only received, as a courtesy, a citation, but she had nothing. Therefore they couldn't give her that courtesy because they can't identify who she is."
  13. **R. Johnson** stated, "And she was in an accident too."
  14. **Morris**, "I am afraid, I agree with Ruth (**Price**) and I feel like the officer's discretion is what comes in play here. My question is why did they take her to the hospital?"
  15. **Bartels**, "Did she ask to be taken?"
  16. **Bozarth**, "I understand it is procedure that they do."
  17. **Morris**, "If it is, I am curious as to why?"
  18. **Robertson** said, "I asked someone from APD that question and they said, that if someone is involved in an accident, whether or not it is minor or not, or injured or not, or if they want to go to the hospital or not, based on their protocol, they take them to the hospital anyway."



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19. **Bartels**, “It is good for the officers to consider the length of time endured at Grady Hospital, but I’m sure they are also looking at a legal liability issue. I can understand then why an officer may error on the side of caution if there is a possibility that this person may have been injured. I wouldn’t want to not take someone to the hospital when they might need medical attention.”
20. **Price**, “They could have refused medical treatment.”
21. Given the amount of time that it is known to take at Grady Hospital, **R. Johnson** asked if it would have been feasible for the officer to allow the complainant to call her parents while she waited, and have them bring her license.
22. **Morris** responded, “Her parents were in New York.”
23. **Bozarth** reiterated his point, Going back to my original comment, I think the system broke down and don’t know if there is a lot you can do to challenge that but the question is, in terms of how we handle these cases, do we just simply, yes technically, there was no violation of any protocol here or do we make the point that this could have been handle better. That’s what I was bringing up. How do we make that point?”
24. **Bartels**, “There are a couple of ways. One is by doing what you just did by saying that I would like to make a comment that I think this could have been handled better. The other option is the Board can always make a specific recommendation about how to handle a particular situation but if we are going to do that I think we need to be specific with our language.”
25. To provide more insight, **R. Johnson** read a statement from Investigator **Robertson’s** conclusion referring to APD SOP 4.4 01 5 governing Traffic Procedures. He then stated, “What I am thinking is as we try to articulate a guideline that we understand we are talking about law.” He also indicated that in order to make such a recommendation, factors need to be considered and the board should have a premise before setting any guidelines for officers.
26. **Harrison**, “I happen to agree with Ms. **Price**. I think that the officer handled the situation in the best way possible. He had no way of knowing who she was. Of course if you flip that and it’s me, driving on the Southside, I going to jail every time. So I don’t understand how we can make a recommendation to APD about something that was basically handled properly.”
27. **Bozarth**, “Since you raise the point, my complaint had nothing to do the fact that this occurred on the north side. It shouldn’t happen on the south side either.” “I stand my original point and that is when a situation that is not violent or dangerous, and this was not, can be handle without incarcerating the person involved, we ought to try and do that. It is in the interest of the police department to do that, I believe and it is certainly in the interest of community a relation which is what we are trying to manage here.”

Following the lengthy discussion, the **Chair** called for a motion and the following were made:

It was moved by **Morris** to agree and accept staff’s recommendation to **exonerate** the officer. The motion was seconded by **Price**. Hearing no further discussion, the vote was called and the motion was approved unanimously.

## **PUBLIC COMMENTS**

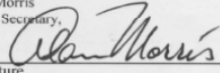
**Chair Bartels** opened the floor for public comments; however, no one signed up to speak.

## **ADJOURNMENT**

**Chair Bartels** entertained a motion to adjourn. **Bozarth** moved to adjourn the meeting.

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The meeting adjourned at 7:35 p.m.

Approved as to form and content,  
Alan Morris  
Board Secretary,  
  
Signature  
*Date: December 13, 2012*