

Approved: March 13, 2014



**ATLANTA CITIZEN REVIEW BOARD
FEBRUARY MEETING MINUTES**

City of Atlanta City Hall
55 Trinity Avenue, S.W., Committee Room One
Atlanta, Georgia 30303
February 20, 2014
6:30 p.m.

The February meeting was called to order by the *Chair* at 6:36 p.m. It should be noted that the February meeting was rescheduled from February 13th to February 20th due to inclement weather.

ROLL CALL

(Eleven Members of the Board)

ACTIVE MEMBERS PRESENT

PAUL BARTELS *(Chair/Bartels)*

OSA BENSON *(Benson)*

ALAN MORRIS *(Morris/Secretary)*

BILL BOZARTH *(Bozarth)*

RUTH PRICE *(Price)*

WILLIAM HARRISON *(Harrison)*

MACEO C. WILLIAMS, SR. *(Vice-Chair/Williams)*

ACTIVE MEMBERS ABSENT

GERALD SOUDER *(Souder)*

VACANT BOARD SEATS

APAB – NPU G-L *(Pending City Council Confirmation)*

Office of the Mayor *(vacant 6 months)*

Atlanta Business League *(vacant 20 months)*

STAFF ATTENDEES

SAMUEL LEE REID, II *(Reid)*, Executive Director; **SHEENA ROBERTSON** *(Robertson)*, Investigator; **MYOLA SMITH** *(Smith)*, Transcriber; **TRACY TAYLOR** *(Taylor)*, Community Outreach Liaison; **SAUL SCHULTZ** *(Attorney Schultz)*, COA Department of Law, Appointed Counsel for ACRB

Chair Bartels welcomed citizens, announcing that public comments are heard later in the agenda. The public is required to sign up to speak and limit comments to three (3) minutes. The *Chair* also welcomed staff Lieutenant David Ferguson and staff from the Atlanta Police Department (APD), Office of Professional Standards.

APPROVAL OF MINUTES OF THE LAST MEETING, JANUARY 9, 2014

The *Chair* directed the Board's attention to the minutes for January 9, 2014. The floor was opened for discussion and corrections to the minutes. *Williams* moved to adopt the minutes. *Morris* seconded. Hearing no further discussion, the motion was approved by all.

EXECUTIVE DIRECTOR REPORT

Highlights from Director *Reid's* Report:

- Mediation Program

Reid provided an update on the program status. He reported that on February 27th at 2:00 p.m., the ACRB, APD and City attorneys will meet to discuss and iron out concerns raised by the City's Law Department of potential liability issues. More specifically, one concern being the liability of officers attending mediation and stating something that can potentially hold the officer liable in a lawsuit. *Reid* said, "There is also a concern about allowing the APD supervisors too much discretion when it comes to offering mediation to officers and citizens. *Reid* stated that he wants to make sure APD and ACRB are closely aligned with national recommendations and with the type of mediation programs that are employed by other cities, and in compliance with the Georgia Supreme Court Dispute Resolution rules.

Williams questioned where APD stood in general on mediation. For the record, he asked, "If it's really the APD's desire not to give citizens an even break or is it that the APD knows that this isn't something invented by ACRB, that it's the national standard, and is what is due to citizens." *Reid* responded that APD are proponents of the mediation just as much as the ACRB. "The stage that we are at now is we need to get some clarification or provide some clarification to the Law Department, because of the concerns that they have about the program. I think once we get past that hurdle, then we should be able to move forward to having a mediation program." *Reid* also added, "Mediation is a process that comes down two streams like we do now. The complaint can go to ACRB or APD. The decision is made to offer mediation to the citizen/officer. If the citizen and officer agree to mediation, it is offered to them and it then goes to a scheduler. If mediation is successful, that's it and the case is closed. If it is not successful and the complainant wants to move forward with it then it goes back to the investigative agency, *ACRB or APD*, and it follows the normal stream of an investigation. No complaint is being disregarded or turned away. It's just another opportunity to build relationships between citizens and officers, and to go to that greater understanding that we're looking for. The program is a joint ACRB and APD effort and is still in development stage." *Harrison* asked if a boardmember can also be present at the meeting on February 27th. *Reid* said yes, and cautioned that the boardmembers must meet with him beforehand to be fully current on the process.

- **Reports to Appointing Agencies** - A reporting form was provided several months ago to boardmembers to be completed following each meeting, and used to report back to appointing agencies to keep them informed on the ACRB. *Reid* reminded members of the need to build and maintain relationships with their respective appointing organization. He said, "When an appointing organization is in search of a new person to replace a member whose term is about to expire, through regular reporting, they have an understanding of

what's happening with the Board, making it a smoother process to find and appoint someone. As ACRB grows and is involved with more of what the mission requires as an agency, we will need to increase individual and organization support. It is also imperative to have a rapport should, for example, a situation arises where an organization has not appointed someone for an extended period of time.”

- **Community Outreach - Tracy Taylor** announced that the Black History Parade will take place Saturday, February 22nd. She reported also that the agency participated in the MLK March on the 20th of January. Members wanting to volunteer for the parade this weekend should contact her for details.

Williams announced that APAB will meet on Saturday, February 21st. He also announced that on the March 28th there will be a ‘Stand Your Ground Rally’ held here in the city at the CWA Hall on Hill Street and I-20.

- **Travel Reconciliation - Reid** announced that a new policy will be implemented, requiring reimbursement funds to be submitted in a timely and orderly process as the City requires. “A time limit will be enforced on all boardmembers’ remittance to ACRB running in conjunction with the City’s code and policy for travel. Funds must be reconciled within seven (7) days of a trip return.

For the record, *Williams* said, “I want it to be known that money was spent unnecessarily on boardmembers who are no longer on the Board and when they took a trip they never reported back to this Board as to what happened on the trip.”

- **Boardmember Parking - Reid** indicated that a quick reimbursement and turn-around process is being considered for parking. He indicated that ACRB will be looking into the feasibility of using the parking garage by the church whereby members can bring the parking ticket in with them so that staff can photocopy the ticket. The boardmember maintains control of the original ticket to exit the parking deck. The photocopy will serve as documentation to process reimbursement.
- **APD Police Academy Training on Use of Force- Reid, Robertson, Benson and Harrison** attended training geared toward the legal and policy side of Use of Force. APD extended an offer to have other boardmembers to come in and observe the training and attend it. *Reid* pointed out that APD plans to offer more training, and although everyone cannot attend at the same time, there may be some members who are interested in trying to put together a committee that can look into the types of training that the Board may be interested in and establish some type of ongoing communication with the Police Department about what kind of training the board can attend.

Discussion and Questions...

Open Records and Mediation

Regarding the Open Records law and the legal concerns previously stated, Bozarth asked, “Would it be consistent and in the interest of creating candor in the mediation, if you excluded any remarks made on the record as being admissible. Would that be consistent with other mediation programs?” Reid said that one of the core functions of mediation is that people can say what they want to. We have a confidentiality agreement that the parties will sign and hopefully impress upon the individuals that nothing that you say in this mediation will be used against you or used in any future

litigation. There are no notes in mediation, there are just two people sitting in there talking. There is no record or audio tape utilized in mediation, nor will it be made public. Even in those complaints that are not successfully mediated, both parties walk away with a greater understanding and appreciation. "Ultimately, what we are trying to do with the agency is to improve relationships between citizens and officers, and a part of that is creating avenues for conversation."

Open Meetings

Regarding the Open Meetings law, **Harrison** indicated that as he understood the new City policy, regardless of the type of meeting being held, and even if it doesn't have a quorum, is it still necessary to take minutes. To help clarify, ACRB Attorney **Schultz** explained that this was limited to the City Council Briefing meetings that were taking place right before the public committee meetings. He clarified that some people were complaining about not being able to access those briefings. Eventually, it was decided to just open up those briefings to the public even if there was not a quorum present so that anyone who wants to attend can attend. "This change was established with respect to the City Council. I don't think there has been any change with respect to your board or any other board." **Harrison** asked Attorney **Schultz** to check into this. **Schultz** indicated that he would and get back to the Board.

Travel Advancement and Reconciliation and Other Concerns

Referring to the Travel Funds Advance Report, **Morris** asked if there is a reason why a travel payment was still outstanding since 2012. **Morris** asked, "Is there a dispute about reconciling the receipts. Why does it take two (2) years to pay back the funds? Why is it still outstanding (referring to **Harrison's** balance)?" **Reid** indicated that the office didn't have a policy as to when travel should be reconciled. **Smith** indicated that travel procedures are regulated by the City. She said, "I beg to differ. We have a policy and it is the City's policy on receiving advance funds for travelling. When someone picks up a travel advancement check, I make it very clear that you have to reconcile your travel in thirty days or less." **Reid** indicated that members who have outstanding balances cannot hold office. He said, "It doesn't look good and the Board is not supposed to be doing it." **Harrison** indicated that he had made payment today. **Price** suggested that a by-laws committee of no more than three people be formed and meet on some of these concerns. **Bartels** proposed modifications in at least three areas of concern: 1) Protocols, behavior and comments at meetings. 2) Clarify making public statements to the media, and that the spokesperson for the Board being the Chair in consultation with the Director, and any person the **Chair** cares to designate. 3) Attendance policy and clarifying what constitutes grounds for removal, and how many meetings members can miss in a row.

INTAKE REPORT FOR JANUARY 2014

It should be noted that the Intake Report was omitted from the agenda. The **Chair** called for a motion to include it.

It was moved by **Morris** to add the Intake Report to the agenda. The motion was seconded by **Bozarth**. Hearing no further discussion the motion was approved.

Intake Report for January 2014:

A total of seven (7) complaints were received for the month of January, 2014. **Investigator Robertson** reported the following:

1. Complaint Number: ACRB 14-001, Alton Bowen alleging Unsatisfactory Service
Mr. Bowen alleges that on April 15, 2009, he was the victim of a theft and the APD officers that responded failed to take a statement from him. Mr. Bowen was referred to OPS. ***Recommend dismissal for lack of jurisdiction and time barred.***
2. Complaint Number: ACRB 14-002, Regina Watts alleging False Imprisonment and Excessive Force
Ms. Watts alleges that on July 13, 2013, Officer Denis Joseph improperly detained her. She further alleges that the officer engaged in excessive force when he pointed his firearm in her face and twisted her arm. ***Recommend investigation as a false imprisonment and excessive force complaint.***
3. Complaint Number: ACRB 14-003, Linda Hinton alleging Unknown
Ms. Hinton filed a complaint concerning an incident that occurred in October 2010. The complaint is vague and lacks details as to what occurred. ***Recommend dismissal because complaint is time barred.***
4. Complaint Number: ACRB 14-004, Clifford Pitts alleging Harassment and Abusive Language
Mr. Pitts, who is incarcerated at the Hancock State Prison, alleges that he is being harassed and subjected to abusive language by a correction officer at the facility. ACRB sent a letter to Mr. Pitts, informing him that the agency is not authorized to investigate complaints against Hancock State Prison employees, and was provided contact information to the Attorney General's Office. ***Recommend dismissal for lack of jurisdiction.***
5. Complaint Number: ACRB 14-005, Alton Brown alleging Excessive Force, False Arrest and False Imprisonment
Mr. Bowen alleges that he was physically assaulted, falsely arrested, and improperly detained by APD officers in 2010. ***Recommend dismissal because complaint is time barred.***
6. Complaint Number: ACRB 14-006, Reggie Mitchell alleging Unsatisfactory Service
Mr. Mitchell called the ACRB to complain about APD's handling of an incident involving his vehicle that occurred on January 20, 2014. Mr. Mitchell was referred to OPS. ***Recommend dismissal for lack of jurisdiction.***
7. Complaint Number: ACRB 14-007, Annette Wright alleging Harassment
Ms. Wright alleges that she was harassed by an APD officer in 2010. Ms. Wright was referred to OPS. ***Recommend dismissal because complaint is time barred.***

Reconsideration of Complaints:

1. Complaint Number: ACRB 13-44-ACD, Michael Broadnax alleging Harassment and Abusive Language
Mr. Broadnax alleged that he was harassed by the correctional officers at the Atlanta Detention Center due to his religious beliefs during his incarceration. He further alleged that he was subjected to abusive language by a female correction officer. A preliminary investigation into Mr. Broadnax's complaint revealed that his harassment allegations are against non-sworn employees at the facility. He was referred to Corrections OPS Unit. Regarding the abusive language allegation, Mr. Broadnax stated that this issue was been resolved, and he no longer wants to pursue this matter. ***Staff recommends dismissal because complaint was withdrawn.***

2. Complaint Number: ACRB 13-115, Zalman Strickland alleging False Arrest
Mr. Strickland alleged that on October 17, 2013, he was falsely arrested by APD Officers Roberts Crosby, J. Basulto and A. Singh. Fulton County Superior Court revealed that Mr. Strickland plead guilty to the charges. *Staff recommends dismissal.*

It was moved by *Williams* to accept the Intake Report. *Morris* seconded the motion. Hearing no further discussion, the vote was called and the motion to accept was approved by all.

REVIEW OF COMPLAINTS

CASE NO. 13-53, QUARTEZ GOODMAN

A. ALLEGATION SUMMARY:

Mr. Goodman alleges that on June 19, 2013, he was falsely arrested by Atlanta Police Officers. He also alleges that during the incident, the officers engaged in unnecessary and excessive force when they tased and physically assaulted him. This complaint was investigated by ACRB Investigator *Robertson*.

Regarding the False Arrest allegation, the Fulton County Superior records revealed that Mr. Goodman pleaded guilty to five counts of obstruction of a law enforcement officer, and four counts of battery. Family members called the police because he was in an altercation with several family members.

*Staff recommends that the allegation of false arrest against Officer Ashley Gibson, the officer who made the decision to arrest him, be assigned a finding of **exonerated**, which means that the alleged acts occurred, there was an arrest, however, they were justified or legal within departmental policy.*

Regarding the allegation of Excessive Force, Mr. Goodman alleges that Officer Matthew Johns engaged in unnecessary excessive force when he initially tased him and then physically assaulted him at some point afterwards. Based on what was uncovered during the investigation, the staff added an abusive language allegation against one of the officers. Officer Johns contends that the use of the taser was reasonable and necessary, because Mr. Goodman was actively resisting and fighting the officers. Officers Gibson, Medlock and Winship corroborate this claim. Also Mr. Goodman's sister and girlfriend both stated that he was extremely drunk and out of control. They too stated that he was resisting the officer's attempt to restrain him.

*The investigation revealed there is sufficient evidence to indicate that Officer Matthew Johns' single use of Taser on Mr. Goodman was reasonably proportionate to the need of force in order to gain control of him. Medical records indicated that the use of the Taser did not inflict any serious injury on Mr. Goodman. Staff recommends that Mr. Goodman's allegation of **Excessive Force** against Officer Matthew Johns be assigned a finding of **not sustained**. There is insufficient evidence to conclude that the officer committed the alleged act of misconduct.*

Regarding the Abusive Language, Mr. Goodman did not allege that he was subjected to abusive language. However, a review of the Taser video revealed that statements consisting

of profanity can be heard on the video. APD Policy prohibits officers from using profane language towards citizens. Officer Matthew Johns stated that it was probable that it was he who used profanity against Mr. Goodman.

*Staff recommends assigning a finding of **Sustained** to the allegation of Abusive Language against Officer Johns.*

B. BOARD VOTES ON STAFF'S RECOMMENDATION

1. It was moved by **Bozarth** to accept the staff recommendation to **exonerate Officer Ashley Gibson** of **False Arrest** as alleged by Mr. Goodman. **Price** seconded. No further discussion, the vote was called and the motion was approved by all.
2. It was moved by **Bozarth** to accept staff's recommendation to **not sustain** the allegation of **Excessive Force** as alleged against **Officer Matthew Johns**. **Morris** seconded. A brief discussion focused primarily on the female officer working an extra sector alone. Following the discussion, the vote was called and the motion was approved with one Ney vote by **Williams**.
3. A second motion was made by **Price**. She moved to include in the letter to the Police Chief, a recommendation for additional training regarding the sufficient use of manpower. **Bozarth** seconded. Calling for the vote, the motion was approved.

*It should be noted that **Robertson** brought to the Board's attention that the police were short staffed in that sector that particular evening. "There were other officers, but there weren't any near her or were out on another call. According to the sheet there were five officers in B sector."*

4. Regarding the allegation of **Abusive Language**, it was motioned by **Bozarth** to accept staff recommendation to **sustain** the allegation against Officer Johns. **Williams** seconded. Calling for the vote, the motion was passed.

During the discussion of the motion, **Benson** informed the Board of her recent Use of Force training regarding officers' use of forceful type language (not obscene, name calling, or discriminatory) to get their point across in certain situations; however, in this instance, the police department's language policy was violated.

C. BOARD VOTES ON DISCIPLINE RECOMMENDATION TO POLICE CHIEF

Before the Board voted on discipline, **Investigator Robertson** reported on Officer Johns' disciplinary history. She stated there were two complaints against Officer Johns since his employment starting in 2009 up to 2012, for recovered property that resulted in a not-sustained, and in 2013 for a vehicle accident for which he received an oral reprimand.

It was moved by **Price** and seconded by **Harrison** to recommend that Officer Matthew Johns receive a written reprimand. Hearing no further discussion, the vote was called and the motion was approved with two Ney votes: **Benson** and **Williams**.

CASE NO. 13-75, MARIA CARMEN

A. CASE SUMMARY:

Ms. Maria Carmen is alleging **False Imprisonment** against Officer Ace Ybañez. ACRB Lead Investigator Sheena **Robertson** investigated the complaint.

Ms. Carmen alleged that on August 28, 2013, she was improperly detained by Officer Ybañez. She stated that when she refused to give him her name and answer his questions, he threatened to arrest her for walking in the street.

Officer Ybañez contends that he did not detain Ms. Carmen, but merely asked her to provide her name and identification. He said she was free to go at any time, however, it was noted that during Officer Ybañez's ACRB interview, he did say that he told Ms. Carmen that he could arrest her for walking in the street.

According to Ms. Carmen, the encounter lasted approximately three to four minutes. Officer Ybañez claims that it lasted no more than seconds. Based on the testimony on documentary evidence obtained during the course of the investigation, there is sufficient evidence to support Ms. Carmen's allegation that she was improperly detained. A consensual encounter with a person does not amount to a seizure, unless the reason of a person would believe under all the circumstances, that he or she is not free to end the encounter. In this case, what appears to have started as a consensual encounter, changed to a seizure when Officer Ybañez threatened to arrest Ms. Carmen for walking in the street.

Therefore, based upon the information obtained during the course of the investigation, the ACRB staff recommends that the allegation of 'False Imprisonment' against Officer Ace Ybanez be assigned a finding of **sustained**.

B. BOARD VOTES ON STAFF'S RECOMMENDATION:

Bozarth moved to accept staff's recommendation to sustain the allegation. **Williams** seconded. No further discussion, the motion was approved.

C. BOARD VOTES ON DISCIPLINE RECOMMENDATION TO POLICE CHIEF

Before the Board voted on discipline, **Investigator Robertson** reported that this is a category 'A' offense.

It was moved by **Harrison** and seconded by **Bozarth** to recommend that Officer Ybañez receive an oral admonishment. Hearing no further discussion, the vote was called and the motion was approved by all.

ACRB 2014 ELECTION OF OFFICERS

The Board held the annual election of officers. The following members were nominated or volunteered:

1. One (1) Nominee for Board Chair: **William Harrison**

2. Two (2) Nominees for Board Vice Chair: **Maceo Williams** and **Ruth Price**
3. Two (2) Nominees for Board Secretary: **Paul Bartels** and **Bill Bozarth**

Candidates were given a couple of minutes to state why they wish to be elected as an officer of the Board.

- **Harrison** highlighted his tenure and his involvement with NACOLE on a national level.
- **Williams** highlighted his love for the citizens and describe himself as being for the people.
- **Price** indicated her desire to serve to not only represent the citizens but also to represent the Police Officers who are also citizens too.
- **Bartels** expressed his appreciation for the support that he received during his tenure as the Board Chair, and to be elected as Secretary would be a continuation of his service to ACRB.
- **Bozarth** withdrew his name for consideration.

*The ballots were cast and the following members were elected as ACRB Officers for 2014:

- Mr. William Harrison, Chair
- Mrs. Ruth Price, Vice Chair
- Mr. Paul Bartels, Secretary

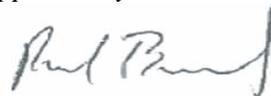
PUBLIC COMMENTS:

Let the record reflect there were no public comments from the audience.

ADJOURNMENT

The **Chair** entertained a motion to end the meeting. It was moved by **Harrison** to adjourn the meeting. **Morris** seconded. The meeting adjourned at 8:45 p.m.

Approved by the Board on March 13, 2014



Paul Bartels, Secretary

**Ballots are available for review in the ACRB at City Hall, 68 Mitchell Street, Atlanta, Georgia 30303 from 8:30 a.m. to 5:00 p.m., Monday through Friday.*