

APPROVED: September 11, 2014



**ATLANTA CITIZEN REVIEW BOARD
JULY MEETING MINUTES**

City of Atlanta City Hall
55 Trinity Avenue, S.W., Committee Room Two
Atlanta, Georgia 30303
July 10, 2014
6:00 p.m.

The July 10, 2014 meeting was called to order by **Chair Harrison** at 6:00 p.m. pending the arrival of **Chair Harrison**.

A G E N D A

ROLL CALL

(Seven Members of the Board)

ACTIVE MEMBERS PRESENT

WILLIAM HARRISON <i>(Chair/Harrison)</i>	GERALD SOUDER <i>(Souder)</i>
PAUL BARTELS <i>(Secretary/Bartels)</i>	SHERRY WILLIAMS <i>(Williams)</i>
** BILL BOZARTH <i>(Bozarth)</i>	*** MACEO C. WILLIAMS, SR. <i>(Williams)</i>
ALAN MORRIS <i>(Morris)</i>	

ACTIVE MEMBERS ABSENT

OSA BENSON *(Benson)*
RUTH PRICE *(Vice Chair/Price)*

VACANT BOARD SEATS

Office of the Mayor *(vacant 11 months)*
Atlanta Business League *(vacant 2 years and 1 month)*

STAFF ATTENDEES

MYOLA SMITH *(Smith)*, Transcriber; **SAUL SCHULTZ**, COA Department of Law, Appointed Counsel for ACRB, **ROBIN LOLAR**, Investigator; **CRYSTAL BYRD**, Community Outreach Specialist.

Guest Attendees: Atlanta Police Department, Office of Professional Standards, Lieutenant David Ferguson.

APPROVAL OF MINUTES OF THE LAST MEETING, JUNE 12, 2014

***It should be noted that Bill Bozarth arrived just before the Board minutes.*

Chair Harrison directed the Board's attention to the minutes for June 12, 2014. The floor was opened for discussion and corrections to the minutes. **M. Williams** made corrections to pages 7 and 10.

Bartels moved to approve the minutes with the noted corrections. **Souder** seconded. Hearing no further discussion, the motion was approved by all.

ETHNICS TRAINING: DOING THE RIGHT THING, BOTH REALITY AND APPEARANCE MATTERS

Presented by Jabu Sengova and assisted by Sherri Dawson.

Ms. Sengova presented on ethical standards for City boardmembers including the Code of Ethics, Conflict of Interest, Gratuities, other provisions and disclosure of interests. She also stressed the importance of public perception which can be a key factor in promoting public trust. She said, The City of Atlanta's Code of Ethics seeks to promote public trust and protect the integrity of city government by setting a standard of conduct for city officials, employees, and anyone doing business with the City." "A government that conducts itself openly, honestly and fairly is rewarded with the full trust of its citizens."

At the end of the presentation, each boardmember signed a Volunteer Officials' Ethics Pledge, stating their promise to promote the integrity in city government by placing the best interest of the City above personal and financial interest. It should also be noted that she stressed that boardmembers are required and bound to file a Financial Disclosure statement each year. Refusal to file is subject to fines and penalties. For more information on the presentation, please refer to the attached information.

*** It is noted that at 7:00 p.m., **Chair Harrison** announced that **M. Williams** had to leave the meeting to attend some personal matters.*

EXECUTIVE DIRECTOR'S REPORT

Director Reid reported the following:

- **Board Training Materials** - Boardmembers will receive materials related to case reviews and the Disciplinary Matrix. This information will be sent out via email with the exception of **S. Williams**, who has already received the information. As part of orientation, the newest boardmembers, **S. Williams** and **Souder**, will go through the training.
- **Citizens Academy Training**-Last month **Director Reid** and **Gerald Souder** attended the Citizens Academy Training on defensive tactics, which consisted of a shooting simulation and also a homicide investigation piece. All board members are encouraged to attend.
- **Airport Administration Meeting**-Last month **Director Reid** and **Investigator Robertson** met with the general manager and his staff to inform them of the ACRB presence, and to acquaint them with the problems between citizens and the Atlanta Police officers assigned to the airport. Talks are still in the process for ways for citizens to contact the ACRB. A meeting with the customer service manager will be planned for the near future. **Reid** noted that citizen airport complaints will be reported to the airport.
- **Director Reid**, adding to the Code of Ethics, reiterated to the Board that ordinance states that no member of the Board shall hold any other public office or hold employment with the City while serving on the Board.

INTAKE REPORT FOR JUNE 2014

A total of six (6) complaints were received for the month of June. *Investigator Robertson* gave the following report:

1. Complaint Number: ACRB No. 14-043, Cetry Weems alleging False Arrest
Mr. Weems alleges that on April 26, 2014, he was falsely arrested by APD Officer Christopher Jones. Fulton County State Court records indicate that Mr. Weems' case was placed in dead docket status on June, 12, 2014.
Recommend investigation as a false arrest complaint.
2. Complaint Number: ACRB No.14-044, Larry Kerr alleging False Arrest
Mr. Kerr alleges that on May 6, 2014, he was falsely arrested by APD Officers Marino and Mitchell. Preliminary investigation revealed that Mr. Kerr's criminal case is pending adjudication in the Fulton County State Court, and the investigation into the false arrest allegation will depend on its outcome. *Therefore, recommend suspension of the investigation pending the adjudication.*
3. Complaint Number: ACRB No. 14-045, Aneisha Raglan alleging Improperly Detained
Ms. Raglan alleges that on May 31, 2014, APD Officer Brinn improperly detained her.
Recommend investigation as a false imprisonment complaint.
4. Complaint Number: ACRB No. 14-046, Saderick Murphy alleging False Arrest
Mr. Murphy alleges that on May 31, 2014, he was falsely arrested by APD Officer Ryan McGovern. He further alleges that the officer left him in the patrol car for approximately 20-25 minutes with the windows rolled up and no air conditioner. Preliminary investigation revealed that Mr. Murphy's criminal case is pending adjudication in the Atlanta Municipal Court and the investigation into the false arrest allegation will depend on its outcome.
Therefore, recommend suspension of the investigation pending the adjudication.
5. Complaint Number: ACRB No. 14-047, Aaron Welton alleging Misconduct
Mr. Welton is alleging that Hancock State Prison employees are engaging in various acts of misconduct. Mr. Welton was referred to the U.S. Attorney General's office.
Recommend dismissal for lack of jurisdiction.
6. Complaint Number: ACRB No. 14-048, Audie Murphy alleging Falsifying Police Report & Rude Behavior. Mr. Murphy state that on May 17, 2014, he was involved in a car accident with another motorist and alleged that the responding APD Officer, Steven Glass, falsified the police report. He further alleges that the officer was very rude toward him. Mr. Murphy was referred to OPS. *Recommend dismissal for lack of jurisdiction.*

Bartels moved to accept staff's recommendation. *S. Williams* seconded. The motion was approved by all.

REVIEW OF COMPLAINTS

CASE NO. 13-52, RODRICUS REACHELL *

It is noted that **Chair Harrison recused himself from discussion and voting on this case citing the complainant in the case as a previous acquaintance.*

Secretary Bartels read the case summary.

Mr. Reachell alleged that on June 4, 2013, Investigator Robeson-El was responsible for having falsely arrested him for a shooting that occurred on May 14, 2013. Mr. Reachell stated that he was not involved in the shooting and did not fit the description of the alleged assailant. He said that he was approached by Investigator Robeson-El weeks apart to his arrest. He told the officer that he had no knowledge of the incident, and also showed the investigator that he didn't have any tattoos on his hands.

Mr. Holmes, which was the shooting victim in this case, identified Mr. Reachell as the assailant that fired the shots at him on May 14, 2013 via photo lineup. Mr. Reachell does not have any tattoos on his hands, but he does have one on his face and one on his right lower arm. Mr. Reachell's arrest was pursuant to a warrant that was issued by the Fulton County Magistrate Court, based on information provided by Investigator Robeson-El. According to the Assistant District Attorney, Mr. Reachell's criminal case, as it relates to the charges stemming from this incident, was not used for the following two reasons: 1) When the victim, Mr. Holmes, called 9-1-1 on the day of the incident, he described the suspect as a light-skinned male with dreads. He did not mention that the suspect had any tattoos. It was days later that Mr. Holmes reported that the suspect also had tattoos on his face and hands. Ms. Travis stated that although Mr. Reachell matched the description to some degree, he has no tattoos on his hands. Furthermore, distribution was not associated with the house in question, but a different house that was located six houses from that one. 2) The assistant district attorney stated that she had a difficult time getting in touch with Investigator Robeson-El on the day of the trial when he did not appear, despite the fact that she had spoken to him two days prior.

Therefore, based on the aforementioned information, ACRB staff recommends that the allegation of false arrest against Investigator El Malik Robeson-El be assigned a finding of **not sustained**. There was insufficient evidence to establish that the officer committed the alleged acts of misconduct.

Discussion...

1. **Bozarth:** "When he was arrested on the 13th, it seems to be part of whether he might have taken part in the shooting would depend on circumstances of that arrest, so I don't know what information you have. Did they, in fact, find a weapon in his place of looting that would sustain the fact that he would've possibly have been the person to have done the shooting?"
2. **Robertson:** "No, and he was actually arrested on June 4th and not the 13th of May. That shooting occurred on May 13th."
3. **Bozarth:** "Excuse me, June 4th was the date. Did they find the weapon that time?"
4. **Robertson:** "No."
5. **Bozarth:** "And the other question I have is, he was interviewed in the jail on July 15, and since I believe his case was...was he still in jail for this charge at that time? Do I have the date right?"
6. **Robertson:** July 15, 2013? Yes, he was."
7. **Bozarth:** "Okay, so you said he was in jail from the time of his arrest...?"
8. **Robertson:** "Until November. Yes."
9. **Bozarth:** "I don't know if you personally talk to them, or did Mr. Lively listen in?"
10. **Robertson:** "This is Mr. Lively's case. No, I did not."
11. **Bozarth** said that part of the Board's judgment rests on whether the Board wants to believe Ms. Travis, who said that she had clearly given an indication that he was supposed to be in court, and the Robeson-El's statement saying she did not say that.

12. **Robertson:** *"He denies that."*
13. **Bozarth** said that since staff didn't talk to either one of them personally, he guessed that he couldn't ask Investigator Robertson's judgment on the credibility on the two statements. **Robertson** said she had interviewed Investigator Robeson-El, but not the complainant. She had also talked to the assistant district attorney on the phone.
14. **Bartels** said that there are a lot of aspects to this case and that the Board needs to try to stay focused. *"Whether the investigator was asked or subpoenaed to appear in court I don't think was relevant. What is relevant is was there probable cause to the arrest. There was a warrant, but even if there isn't a warrant, the case needs to be looked at beyond that and say was there probable cause? To his understanding, it can still be false arrest with a warrant if the Board finds that there was not probable cause in the first place."*
15. **Bozarth** said one of the things that he was concerned about is when he didn't show up in court and whether he in fact might have sense that, his initial identification of Reachell, as a suspect, was now going to be questioned. There have been many of case brought before the Board where the case is dropped because the officer doesn't come, and it's always confusing. Sometimes the police department will say they didn't get the notification, and he was sure that it happens sometimes.
16. **Bartels** said he was conflicted about this case in terms of whether there is probable cause, because there's only three pieces of evidence. 1). He matched part of the description in that he was a black male with dreadlocks, approximately the same size, between 5'5" and 5'9", 160/170 pounds, which covers a lot of people. 2). He was in the approximate same location six days after the shooting happened. 3). The six pictures of the lineup, to a certain extent, was a suggestive photo lineup. Looking at all the pictures the other five are thought to be stock photographs kept on hand to be used routinely. They are shown from the chest up and a type of clothing worn. Reachell's photo fills the entire frame. *"I'm not saying that that was deliberate. I imagine the other photographs are probably stock ones, and they might have gotten his driver's license photo or something like that. But if you look at number 2 and compare it with the rest of them it really does jump out at you. And to me, that lineup are the--that's really the only decent evidence against him, and I know that, you know, probable cause is a pretty low standard. There just has to be some evidence that a reasonable person would believe that the person committed the crime, but I'm having some difficulty with it."*
17. **Bartels** said he did some research on whether photo lineup would be permissible. *"The courts in Georgia said that a photo lineup is inadmissible if it creates a substantial risk of irreversible misidentification. In other words, it's okay if it's a little bit suggestive, but it can't be too suggestive, and when it's too suggestive, you know, they just look at it on a case by case basis. And I don't think that there's any way to know how a court would rule in this case, unless it were to go to trial and the lawyer would file to a motion. The judge looks at it and says 'yes' or 'no'." "I think, you know, probable cause is pretty big. You know it's not an exact standard, but, as I said, this lineup is pretty much the only evidence that there is a glimpse of." "That carries some weight, I mean, if somebody says this is the person that did it, you know courts do pay attention to that."*
18. **S. Williams** had a question about the witnesses if Investigator Robertson talked with any of them.
19. **Robertson** said Investigator Lively interviewed them. *"From listening to the recording, they all said that he was at a barbeque at an aunt's house that day."*
20. **S. Williams:** *"So, we don't know if any of these people were related to him or are his friends or anything of that nature. We just know that there were five people that said he was there."*
21. **Robertson:** *"They're not related to him. They're just friends, and one of them is a girlfriend."*
22. **S. Williams:** *"Okay, so it was established that one was a girlfriend, but that the other four definitely were not related, or they're not his friends?"*
23. **Robertson:** *"They're not related to him. They're associates, they're friends of his, but that was his girlfriend. Also they claim that they had photographs of him being at the barbeque, but that was never produced. They never produced those. The attorney did acknowledge that she did send a subpoena to the officer to appear in court, but she realized that she sent it to the wrong location. So, he didn't get notification of the subpoena, but she claimed she spoke to him that weekend prior to the trial, and he said that never happened."*

24. **Bozarth:** “I really reluctantly agree with the recommendation of the staff that we don’t have enough real clear evidence that we could use to discipline the officer, but it does look suspicious, so I think I’m going to reluctantly accept the recommendation.”
25. **Bartels** agreed and said that it’s a close call because there was very little evidence against Reachell and that he was identified in a lineup, and whatever our decision is, the letter that we send should certainly say that the Board was concerned about the lineup and felt that it was suggested.

Following the discussion, **Souder** made a motion to accept staff’s recommendation and mention in the letter to the Chief Turner the concern with the lineup. **Bozarth** seconded. No further discussion, the vote was called and the motion was approved without opposition.

OLD BUSINESS

NACOLE CONFERENCE

Chair Harrison requested a list of the people who will be attending the conference. He also asked for the names of the attendees who will be traveling to Kansas City on September 14, 2014, be reflected in the record. For the record, the attendees traveling to the NACOLE Conference this year are:

1. **Williams Harrison, Chair**
2. **Maceo Williams**
3. **S. Williams**
4. **Robin Lolar (staff member)**

NEW BUSINESS

No new business to report.

PUBLIC COMMENTS:

There were no public comments.

ADJOURNMENT

Bartels entertained a motion to end the meeting. **Morris** seconded to adjourn the meeting. The meeting adjourned at 7:25 p.m.

*These minutes were officially approved by the
Atlanta Citizen Review Board on September 11, 2014.*



PAUL E. BARTEL
ACRB Secretary