ATLANTA CITIZEN REVIEW BOARD
JULY MEETING MINUTES
55 Trinity Avenue, SW, Committee Room One
Atlanta, Georgia 30303
July 12, 2012 / 6:30 P.M.

MEETING CALLED TO ORDER

The meeting was called to order by the Chair at 6:35 p.m.

ROLL CALL
(Eleven Members of the Board)

ACTIVE MEMBERS PRESENT

PAMALA ALINIECE (Aliniece)  RYAN JOHNSON (R. Johnson)
PAUL BARTELS (Chair/Bartels)  ALAN MORRIS (Secretary/Morris)
BILL BOZARTH (Bozarth)       RUTH PRICE (Price)
WILLIAM HARRISON (Vice Chair/Harrison)  MACEO WILLIAMS (Williams)
CHARIS JOHNSON (C. Johnson)

ACTIVE MEMBERS ABSENT

BARBARA HUBBARD (Hubbard)

ONE VACANT APPOINTMENT
Office of the Mayor (vacant 12 months)

STAFF ATTENDEES
BILL CASTING, Board Assigned Attorney (Casting), City Law Department; AMANDA HARDEMAN, Student Intern (Hardeman; SHEENA ROBERTSON, Investigator (Robertson); MYOLA SMITH, Transcriber (Smith)

The Chair welcomed citizens and guest announcing Public Comments are heard at the end of the agenda, and if anyone cared to speak, to please sign up. Comments are limited to three (3) minutes per person.
AGENDA

APPROVAL OF MINUTES OF THE LAST MEETING, JUNE 14, 2012

The Chair directed attention to the minutes and opened the floor for corrections and a motion.

Williams made corrections to the minutes on Page 3, under Discussion: items #9 #11.

Following his corrections it was moved by Williams to approve the minutes with noted corrections. The motion was seconded by Price. Hearing no further discussion, the motion was approved by all.

INTAKE REPORT FOR JUNE 2012

The monthly Intake Report was presented by Investigator Robertson. She reported ACRB received five (5) complaints for the month of June and they are listed as follows:

- Complaint #12-14 filed by Andrea Garris alleging False Arrest by APD.
  Ms. Garris alleges that Officer Wheeler falsely arrested and charged her with terroristic threats and acts. Ms. Garris is currently incarcerated at the Fulton County Jail.
  Staff recommends investigation if and when the matter is adjudicated in favor of Ms. Garris.

- Complaint #12-15 filed by Grace Bocchino alleging False Arrest by APD Officer B. White.
  Staff recommends investigation.

- Complaint #12-10 filed by Zelda Ware is a Service Complaint. Mrs. Ware was involved in an accident with another motorist. She alleges that APD Officer M. Brooks, failed to cite the other motorist who was a fault. She further alleges that Officer Brook’s police report is inaccurate.
  Staff recommends dismissal because the complaint does not fall within the Board’s jurisdiction.

- Complaint #12-17 filed by Neiko Lane alleging Inadequate Counsel. Mr. Lane is an inmate at the Fulton County Jail. He alleges that his Public Defender is trying to force him to take a plea deal and is seeking help with his case.
  Staff recommends dismissal because the complaint does not fall within the Board’s jurisdiction.

- Complaint #12-18 filed by Duane Blocker alleging False Arrest. Mr. Blocker alleges that on two separate occasions, June 1st and June 18th by APD Officers. The June 1st case is still pending adjudication in the court. The June 18th case was dismissed July 2nd.
  Staff recommends suspending the investigation pending the adjudication of his June 1st case.

The Chair entertained a motion.

It was moved by Harrison to accept the staff report and recommendation. The motion was seconded by Price. Hearing no discussion, the vote was called and the motion was unanimously approved.
INVESTIGATOR VACANCY – INVESTIGATOR SHEENA ROBERTSON

Investigator Robertson addressed the Board regarding the vacant investigator position formally held by Marc Addington. She indicated that Mr. Addington, the former investigator, had left behind five (5) open cases that are still pending. Robertson stated that she has to take on those five open cases, as well as, her own case load plus all new incoming cases. She said, “I am getting a rather large case load and I am recommending that we go ahead and post the vacant position, select the resumes; therefore, when the new ED comes on board, the resumes will be ready for review and we can start the interview process and bring a new investigator on board as soon as possible.”

The Chair entertained a motion.

It was moved by Williams to accept Robertson recommendation to post the vacant investigator position. The motion was seconded by Price. Hearing no discussion, the vote was called and the motion was unanimously approved.

It should be noted that Robertson asked the Board to amend the agenda to consider dismissal of Case #11-92, Jermarcus Horton. The agenda was amended without opposition.

REQUEST TO CLOSE INVESTIGATION, CASE NO. 11-92 – JERMARCUS HORTON

Robertson reported that on December 30, 2011, Mr. Jermarcus Horton filed a timely complaint with the Atlanta Citizen Review Board (“ACRB”). He alleges that Atlanta Police Investigator Bridgette Porter subjected him to profane and abusive language during his arrest on December 22, 2011. Mr. Horton alleged that Investigator Porter said, “Motherfucker, I told you I was going to get your ass.”

This investigation was originally assigned to former ACRB Investigator Marc Addington. A careful review of the case file indicates that Investigator Porter was interviewed by Addington sometime in March 2012; however, there is no record of the interview. On July 10, 2012, Robertson contacted the Office of Professional Standards (“OPS”) to ascertain the status of their investigation. Lieutenant Steed, OPS Supervisor, informed the ACRB that their investigation has been completed and provided a copy of their investigative file.

A review of the file indicates that there was sufficient evidence to establish that Investigator Porter used profanity towards Mr. Horton. Investigator Porter was found to be in violation of APD.SOP.2010, Section 4.2.02 (Courtesy) and was issued an oral reprimand as penalty.

Therefore, based on the aforementioned facts, it is recommended that this matter be considered closed with no further action by the ACRB. Robertson stated, “Instead of calling her (Investigator Porter) back to re-interview her, in my opinion, would be pretty unfair at this point because they (APD) reached the conclusion that we would have been seeking in the first place. I reviewed Porter’s OPS history and she does not have a substantial disciplinary or complaint history.”

Discussion...

1) Bozarth asked, “If we do that, what do you suggest doing with the complainant in terms of notifying them?”

2) Robertson responded, “I will send her a letter detailing the Board’s decision and also I will send her a copy of the OPS finding.”

3) Bozarth, “Is it a presumption that she would accept? Do you know enough about the situation to know that that is going to satisfy the complainant?”
4) Robertson said, “I think if we had investigated the complaint and the Board sustained the allegation, when we looked at APD disciplinary rules, that (oral reprimand) would have been the recommended penalty because it would have fallen within that category.”

5) Bozarth asked Robertson if she will essentially put that into the letter to the complainant.

6) Robertson said, “Yes.”

7) Bartels said, “I would say that in the past, I think we have had a few cases where officers used profanity and without a significant disciplinary history, we recommend a reprimand.

The Chair entertained a motion.

It was moved by Price to accept Robertson recommendation to close the case based on the oral reprimand that the officer had already received. The motion was seconded by Harrison. Hearing no discussion, the motion was approved with one Nay vote (Williams).

NOTE: It should be noted that the agenda was once again amended moving up item VI and moving item V to the end of the agenda to accommodate Public Comments and members leaving early due to prior commitments.

PERSONNEL SEARCH COMMITTEE REPORT

The Chair entertained a motion to go into Executive Session.

It was moved by Harrison to go into Executive Session to discuss personnel matters. The motion was seconded by R. Johnson. The motion was unanimously approved.

Closed Session started at 6:55 p.m.

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Closed Session ended at 7:10 p.m.

It was moved by Harrison to move out of closed session. The motion was seconded by Price. The motion was unanimously approved.

Regular session resumed. The Chair informed the public that following Public Comments, the Board would take a vote to elect a new full-time Executive Director. He also announced that one of the three finalists, Mr. Rick Rasmussen, emailed the Board to indicate that he wished to withdraw his name from consideration. “So the two final candidates are Mr. Samuel Reid and Ms. Victoria Uri.”

PUBLIC COMMENTS:

Chair Bartels opened the floor for public comments
No member of the public signed up to speak.

BOARD VOTES ON PERSONNEL:

It should be noted that each member received a paper ballot to vote with the following instruction: “Cast your vote by checking the box next to the name of the candidate of your choice for Executive Director.” The names appeared on the ballot in alphabetical order as follows:
Chair Bartels opened the floor for the vote and each member was asked to mark their ballot.

**Note:** It should be noted that the individual votes are anonymous or referred to as secret ballots.

The Chair called for the results. Smith announced that Victoria A. Urbi, Antioch, California received four (4) votes and Samuel L. Reid, II, Minneapolis, MN received five (5) votes.

The Chair proclaimed Samuel Reid as the designee. The next step will be a formal offer which includes a background check. Bartels said, "We are looking forward to moving ahead. It has been too long we have been without an Executive Director and we are really looking forward to this. Ms. Urbi, being the second placed person, would be the choice if Mr. Reid, for whatever reason, is not able to take the position."

**DISCUSSION AND COMMENTS REGARDING RAIDS**

Chair Bartels stated that at the last meeting he and Bozarth expressed concern regarding the appropriateness and advisability of certain levels of force that are used in raids, particularly, "No-Knock" forced entry raids.

Bozarth added, "I would like to initiate an open discussion among the board members around this issue. It has to do with Case #11-90 (Edwina Blount) that we talked about and voted to support Ms. Robertson's recommendation that the officers involved be exonerated. If you recalled, it was a raid of a woman's house that involved a large sweat team. Her (Ms. Blount) son had some charges against him. The raid did not yield the person they were looking for but in the process, they broke her door down. Her complaint was False Arrest in the sense that she was detained momentarily while they searched the house. I agreed with Ms. Robertson's findings that the officers involved should not be disciplined in any way, but the more I thought about it as I was listening to it and subsequent discussion with a couple of board members, I asked Ms. Robertson to go back and get a little more on it because she was not here to answer questions that night if you recalled. I'm concerned that this situation has shades of the Kathryn Johnston affair, which is the incident that leads to us being here tonight. I don't want to compare the two situations at all, since there was some criminal behavior on the part of the police officers and a woman died but no one got hurt in this case. But the use of this amount of force against what seems to be, from the record, a relatively minor drug offender, opened an opportunity for something bad to happen.

The thing I wanted to do with the agenda discussion and perhaps lead to the resolution of how we deal with situations where the officers involved may not have done anything in our opinion that merits any sort of discipline but perhaps the decision to do this in the first place which lead to the complaint, is something that we as a board, ought to raise a voice on when appropriate. So I would like to put this out there for discussion and see if the board agrees with some of my concerns and if they do, I would propose Mr. Chairman, that I would have a resolution ready that sort of addresses this for future cases. That is what I would like for the Board to consider and any public comment, of course, is welcome and if there is a member of the Police Department here who would like to comment on it, they could do that. First I would asked Ms. Robertson to give us whatever information she can about the person they were looking for...the lady's son who was wanted. Can you provide us with a little more than we had last time?"

Robertson reported that Jeffery Shack had two active arrest warrants for possession of crack cocaine and marijuana. The officers obtained a search warrant for his mother's residence because they had conducted surveillance at that location several times and observed that he had been going in and out of the same residence. Therefore, they had reason to believe that this particular residence was where Mr. Shack lived. It was the
Narcotics Unit that actually went to the location and executed the search warrant. There were a total of seven (7) officers including a supervisor. According to their SOPs, 2020, Section 4.2.8 it says in Section 6, “reasonable and necessary force may be used to affect entry into any building or property to execute a search warrant if after verbal notice, or an attempt in good faith to give verbal notice by the officer directed to execute the same of his authority and purpose.” It does not say what type of force they should use it just said “reasonable and necessary” force. There is nothing to address what that necessarily is or what it means specifically, at least I didn’t find anything to address it."

Discussion...

1) **Bozarth** asked, “You say Mr. Shack was wanted for possession of cocaine and marijuana, is that correct?”

2) **Robertson** answered, “Yes.”

3) **Bozarth** continued, “My point is there are so many thoughts on this...He (Mr. Shack) sounds like a small fish in an overall drug war; but maybe there was more to it. Was he a drug dealer?”

4) **Robertson** stated, “The officer said he was selling drugs at a particular location.”

5) **Bozarth**, “So he may have been someone they were trying to get that justified the means of force. My question is there probably are a lot of people in the City of Atlanta who are wanted for possession of small amount of drugs. If the policy of the department is to use this degree of force to try to find him at the location where he turned out not to be...that is simply a policy that is going to lead to more problems. I thought that maybe this Board ought to take a position or at least determine in the future, how we deal, not only with the actual action of the officers but the policy that lead to this situation.”

6) **Bartels** said, “We have always had the option, when we sustain or even exonerate or not sustain, we always had the option of adding a recommendation. Whether that recommendation gets adopted or not is out of our hands but we can go on paper as making the recommendation. We do have the option of indicating whether we believe the level of force or the number of officers or the tactics that were used was appropriate to the situation. And that will depend on the facts of the case. Honestly, I don’t believe we will ever know all the facts of the case. If the officer is saying he (Mr. Shack) was suspected of dealing drugs that could mean that he is potentially dangerous...that he is somebody who just sells a rock every now and then to support his own habit.”

7) **R. Johnson** asked what type of warrant was requested by the police officers. “Was it a No-Knock Warrant?”

8) **Robertson** responded that it was not.

9) **R. Johnson** stated, “I believe the officers stated that they did knock, yet no one responded. I haven’t been out to the home of Ms. Blount to see how large her house is but she did state that she was in her bedroom which was located at the rear of the house. I don’t know what the environment was like at that particular time, we don’t have that information, but I’m sure the warrant was validated.”

10) **Robertson** responded that it was and signed by the Judge.

11) **R. Johnson** continued, “Obviously they had enough evidence to execute the search warrant and out of the safety of the officers, I’m pretty sure they had their team set up with a certain amount of officers in order to execute a warrant. I don’t know if that may be adjustable or not...based on this type of warrant for this type of individual, you only come with three (officers) as oppose to two...do we know that?”

12) **Robertson** said, “I did a little legal research on it and basically, the courts have said that anytime when you are executing a search warrant, and it didn’t say how many officers are required to go with you to execute the warrant or anything like that, the courts just said they have to just give appropriate notice of their authority and purpose to the person in apparent control of the premises to be search. Therefore, the officers must identify themselves as police and indicate that they are present for the purpose of executing a search warrant. Once after having given the required notice, the officer must wait a reasonable period of time before he may break into the premises to be searched. That is the occupant must be given a reasonable opportunity to surrender his privacy voluntarily before the police commence to break in. Generally, the courts have upheld that the police may proceed to enter after waiting no longer than 10 to 20 seconds. This is pretty much the way the courts upheld cases in those types of situations when executing search warrants.”
13) **Williams** recalled that he had asked **Price** that question about the amount of time police should wait before entering the home. “I believe it was said 20 or 30 seconds or something like that.”

14) **Bartels** said, “I think the officers really have broad discretion.”

15) **Williams** added, “Going back to what Bill (Bozarth) said about Ms. Johnson. You also have to realize that we (the Board) had already done an investigation on that type of warrant and even though everyone always refers back to Ms. Johnson’s death, nobody has ever asked about the final results of the study because we never did bring it before the public. The study was done, a copy was passed around to the board, but it never came forth to the public so that is a question that needs to come out too about that particular investigation or study itself about Ms. Johnson and No-Knock warrants.”

16) **C. Johnson** asked **Williams**, “Are you talking about the Board’s investigation?”

17) **Williams** responded, “Yes.”

18) **R. Johnson** asked, “Do you mean the study?”

19) **Williams** responded, “Yes, and if you were here, I believe you got a copy or saw it.”

20) **R. Johnson** indicated that he didn’t believe he received he got a copy.

Following the discussion and as a resolution, **Bozarth** said, “If the Board will entertain this as a suggestion, I would propose a resolution and we do the following things:

- the Board would resolve that we instruct our new Executive Director that in future cases involving excessive force by a coordinated effort of multiple officers, that we include in our investigation, the policy decision that led to the incident precipitating the complaint; and
- in Case 11-90 filed by Edwina Blount, we authorize the Chair or staff to send a second letter supplementing our letter of July 2nd requesting Chief Turner to provide us with information that explains the narcotic unit’s decision to use SWAT team tactics to execute the warrant at Mrs. Blount’s home on December 13, 2011.

That would satisfy me that we are taking into account this other aspect of the case that was previously not addressed.”

Discussion...

1) **Harrison** said, “So is that a resolution to have the Executive Director look into it?”

2) **Bozarth** answered, “In future cases that involve multiple officers and a complaint has excessive force as a possible allegation, that that be part of any future investigation. That is the first part of the resolution...”

3) **Bartels** interjected, “It may be helpful if there were two parts to that, it may be helpful to split it into two motions.”

4) To clarify, **C. Johnson** asked **Bozarth**, “Do you mean resolution or a motion?”

5) **Bartels** answered, “If it something we are going to vote on, it has to be a motion.”

6) **Bozarth** added, “Yes, this would be a resolution that the Board is advising the staff or in this case, the Chair might actually write the letter on both the larger issue of excessive force and this particular issue of Case 11-90, in further correspondence with the police department on that particular case...asking for more information.”

7) **Attorney Casting** stated, “I think that is a little unusual. You can make that decision as a case comes up. You don’t need to make an advance decision and say we are going to do this in the future for these kinds of cases. I think it would be more appropriate when they come up in future, if you want to have something like he (Bozarth) suggested, you can insert it at that time and make it part of the motion and vote on it appropriately as opposed to saying categorically, this is what we are going to do in the future.”

8) **Bozarth** responded, “My only problem with that approach would be that if the investigators are not looking at that as part of the investigation, then what we do is we come and we see a recommendation, we would then be asking did you look into this and if they had that’s fine, but if they hadn’t, you delay the
decision on it. My suggestion is it wouldn't be a bad thing to build that into the process on cases that involved large numbers of policeman.”

9) Bartels said, “I don’t have a problem with it, but I think it is something our new Executive Director could take it and craft a more specific policy.”

10) R. Johnson asked, “Are you asking the Executive Director to look into communicating with Chief Turner as to how he determines how many officers respond to certain warrants?”

11) Bozarth answered, “On this particular one.” R. Johnson, “Just this one?”

12) Williams stated, “You are mixing us up Bill (Bozarth). You said in the future, now you are saying just this one.”

13) Bozarth said, “The resolution had two parts, the first one was a way of doing future investigations and that is a message from us to our new Executive Director. The second part, I think in order to at least let the Chief know we are looking at this, is to ask for some further information on the decision behind the 11-90 complaint.”

14) Bartels suggested, “My suggestion would be to split that into motions. If you want to make the whole motion, that’s fine.”

15) Bozarth asked, “Are you saying you are comfortable with part of it but not comfortable with all of it?”

16) C. Johnson stated, “I agree that it should be two parts. The second part sounds like it could be in the form of a motion. The first part sounds like the crafting or revision of a policy. I don’t know if we want to say then that we would like to modify or revise because I don’t know if we have Policies and Procedures, I know we have Bylaws.”

17) Bartels interjected, “We do have Policies and Procedures and there is a very specific procedure we have to follow to modify them.”

18) C. Johnson continued, “Well then in that case, whatever the process and procedure is for a modification about procedures; therefore, we could agree, vote on or decide that we want to make that change.”

19) Harrison asked, “Wouldn’t we have the option to table that and wait until the Executive Director comes in and we can address it at the first meeting that he attends to get further input as to how he wants to approach that issue? I understand what you are saying and I agree with both parts of what you putting forth. What I would also like to see is this same type of effort put forth for racial profiling. My intention with the new Executive Director is to gather statistics that goes on in APD. With regards to what you are saying, I think there is a problem with “No Knock” warrants where they burst the door down and all of sudden the suspect is not there. That’s the overall problem am I right and is that what you are trying you do?”

20) Bozarth, “Yea. It could lead to something bad, if you are not very careful and I want us to send that message.”

21) Harrison, “So I guess what I am putting forth to you is would you be willing to table that until maybe our next meeting or the meeting that our Executive Director attends where we can put the issue before him?”

22) Bozarth, “In answer to your question, I would be perfectly willing to table the first part of it, because I think it has to be worked into our policy and the Executive Director should be involved in that. In case 11-90, I would prefer us to decide one way or the other if we want to follow-up because we wrote that letter on July 2nd and it would not be appropriate to let that drag on for months. If we have a concern, I believe that ought to be put out there. We can vote up or down on it, but I would rather do that.”

23) R. Johnson, “So that I have full knowledge of what I’m doing here, are we asking the Chief what his policy is and why they use the tactics he is using?”

24) Bozarth answered, “I would word it a little differently, but essentially, yes, that is what we are doing.”

25) R. Johnson asked, “Would it be possible to have someone from our office, maybe Investigator Sheena (Robertson) to just simply ask him and follow up?”

26) Bozarth, “I think you would do it in writing.”

27) Bartels agreed and added, “We have tabled the first part, could you restate the motion, so that we are clear.”

The Chair opened the floor for the motion.
Bozarth, “The first part will be deferred until we have an Executive Director and we’ll discuss the policy changes. The motion is, In case 11-90, filed by Ms. Edwina Blount, with authorize the Chair to send a second letter supplementing the July 2nd letter requesting Chief Turner to provide us with information that explains the Narcotics Unit decision to use SWAT Team tactics to execute the warrant in Ms. Blount home on December 13, 2011.” The motion was seconded by Harrison. Hearing no further discussion, the vote was called and the motion was passed unanimously.

CLOSING COMMENTS:

Williams acknowledged that tonight’s meeting was Pamala Aliniece last meeting. He said, “It has been a pleasure working with Ms. Aliniece doing the time she has been here from day one up to the end. Even though, she has to leave due to personal reason, her son and a fine young man, I just want to say, thank you for everything you have done for this board.”

R. Johnson agreed and the Chair also thanked Ms. Aliniece. He said, “Pam (Aliniece), we really appreciate all your time and certainly wish you the best. Let’s hope we can get somebody who is as dedicated in your spot.”

ADJOURNMENT:

Chair Bartels entertained a motion to adjourn. Williams moved to adjourn the meeting. The meeting adjourned at 7:40 p.m.

Alan Morris,  
Board Secretary  

Approved as to form and contents. 
Alan Morris  
Board Secretary  

Signature  

August 9, 2012  
Date