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July 14, 2009

Chief Richard Pennington
Atlanta Police Department
226 Peachtree Street
Atlanta, Georgia 30303:

RE: 09-02 Complaint of Airric Stewart

Dear Chief Pennington:

The Atlanta Citizen Review Board (“ACRB”) completed its investigation and adjudication of the complaint that was filed by Airric Stewart on February 2, 2009 against Atlanta Police Officers Michael Skillman, Carl Wilson and Drew Bahry. Mr. Stewart alleged that on January 12, 2009 at about 9:30 a.m. while at the intersection of Maple Drive and Peachtree Road, he was stopped by the aforementioned officers. The reason that he was stopped was that he matched the description of a bank robbery suspect. Mr. Stewart complained that the officers engaged in unnecessary and excessive force when they grabbed him, pulled him to the ground and handcuffed him. He contends that the force used by the officers was unnecessary because he cooperated with the officers throughout the stop.

Officers Wilson and Bahry were working departmentally approved extra jobs at the time of the stop. Officer Skillman was on a regular tour of duty with the Atlanta Police Department. The officers submitted written statements to their supervisor after Mr. Stewart complained to the Zone Commander and the ACRB considered the written statements. The officers appeared in the ACRB after being summoned and refused to answer any questions after being advised of their constitutional rights.

The Board considered all the evidence and the applicable law and policy. The Board recognizes that it is constitutional to stop a citizen if the officer has reasonable suspicion that a person committed, is committing or is about to commit a crime. Assuming that the description provided by the officers in their

statements of the suspect is correct, there was sufficient justification to stop and question the complainant.

The Atlanta Police Department's Standard Operating Procedure, APD.SOP.3010, Section 2.1 states, "(t)he Atlanta Police Department recognizes and respects the value of human life, and the right of people to be secure in their persons and property. Sworn employees who, in the performance of their duties, encounter situations where the use of force reasonably appears necessary to affect an arrest or detention, overcome resistance, control a subject, or protect themselves or others from injury or death, will only use that force which is reasonable and necessary in order to accomplish lawful objectives." Mr. Stewart alleged that the three officers grabbed him, pulled him to the ground and handcuffed him after he refused to release his back pack. Some force may have been reasonable, however, the officer failed to thoroughly investigate the matter prior to using the force and the actions were not proportionate to the resistance. Mr. Stewart was not combative and there was no threat to the officers. Since the officers refused to submit to interviews, the complainant's version of the incident was deemed more credible.

For the above reasons, the ACRB decided by a unanimous vote to **Sustain** the Allegation of **Excessive Force** against Officers Skillman, Wilson and Bahry. The Board further recommends that these officers have a copy of this letter placed in their personnel file and that the Chief impose any further discipline that he deems appropriate. Additionally, the Board recommends that the Atlanta Police Department re-train these officers on Terry Stops and the Use of Force that is reasonable when conducting an investigatory stop.

Please let me know if you have any questions or concerns or if you would like to have a copy of the investigation. The ordinance requires that the Chief respond in writing regarding which recommendations are accepted, rejected, or will be implemented with modifications within thirty (30) days of the submission of a recommendation for action by the Board to the Chief. See Sec. 2-2211(O) of Ordinance 07-0-0141.

Sincerely,



Rod Edmond, M.D., J.D.

Chair, Atlanta Citizen Review Board

cc: Mayor Franklin