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September 12, 2011

Chief George Turner
Atlanta Police Department
226 Peachtree Street, S.W.
Atlanta, Georgia 30303

RE: Complaints of Shawn Venegas, #10-72 and
Brian Kidd, #10-73

Dear Chief Turner:

The Atlanta Citizen Review Board (“ACRB”) completed its investigation and adjudication of the complaints filed by Shawn Venegas and Brian Kidd alleging that Officers Cayenne Mayes, Travis Britt, and Dion Meredith falsely imprisoned them and used excessive force. Additionally, they alleged that inappropriate strip searches were conducted on each of them and that Mr. Venegas was subjected to a cavity search in public.

Shawn Venegas was the driver of the car and Brian Kidd was the passenger. They were stopped by the officers at the intersection of Fulton and Whitehall Terrace. They claim they had not committed any traffic violations; however, they said that Officer Mayes approached the driver’s side of the car with his firearm drawn and pointed at Shawn Venegas. Officer Britt approached the passenger side and asked if they had anything illegal in the car. Mr. Kidd told him no and Officer Britt opened the car door and pulled him from the car and searched him without his consent. He removed the contents from his pockets and opened his shorts to see if there was anything in his pants. The officers asked Shawn Venegas for permission to search his car and Venegas denied them the consent. Despite this, Venegas and Kidd were detained at the rear of the car by Officer Meredith, while Officers Mayes and Britt searched the car and the trunk.

The complainants said that Officer Meredith pulled Shawn Venegas’ pants down in public and required him to spread his buttocks. An outstanding

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warrant was discovered for the arrest of Brian Kidd. He was arrested and searched a second time. Mr. Kidd said that Officer Britt, using gloves, searched his genital area. After the search, the officers discussed what charge to place in order to justify the stop of the motor vehicle. Officer Mayes wrote a citation for failure to stop at a stop sign at Fulton and Ira Streets. There is no stop sign at this location.

The three officers claim that they stopped the car for a stop sign violation and when they approached the car, they observed Brian Kidd attempting to conceal blunts or blunt wrappers. For this reason, they had the occupants step out of the car. They claim that Kidd and Venegas consented to be searched and to have the car searched. They deny that any of the three officers had Mr. Venegas lower his pants in public. Officer Mayes said that he did not draw his firearm and point it at Venegas. He claims that he made a mistake on the citation and police report about the location of the stop sign. He said that the car ran a stop sign, but the location was incorrect. He neglected to note the observations about the blunts or blunt wrappers in the police report he submitted. He did not mention anything about conducting a search of the motor vehicle based on the consent of the driver and/or passenger.

Officer Britt said that he approached the passenger side of the car and the occupants were acting nervously. He said Kidd tried to conceal blunt wrappers and participated in the search of the car. He could not remember whether the trunk of the car was searched. He said that because of the observation of the blunt wrappers, he searched Kidd by opening his belt and pulling out his pants and looking inside them. He said the purpose of the search was for contraband or weapons. He said that after the arrest warrant was discovered, he searched him again and unbuckled Mr. Kidd's belt and looked into his shorts. He did not see Officer Mayes draw and point his firearm.

Officer Meredith claims that he stood in the rear of the stopped car while Officers Mayes and Britt observed the driver and passenger. He said that he did not recall whether Mayes had his firearm drawn. He could not hear what the other officers said to the driver or the passenger. He said that he observed pat down searches and a check of their waist bands. He denied having Venegas spread his buttocks and said he did not search the trunk of the car. He recalled blunt wrappers and he did not hear the officers explain the reason for the stop.

It became clear during the course of the investigation that the complainants' version of the incident could not be reconciled with the officers' version of the incident. Truth Detection exams were administered which were also inconsistent with one another.

A review of previous complaints of improper searches by these officers was conducted. The complaint history of other Red Dog units was also considered. This is consistent with Department of Justice Guidelines.¹ The similar allegations involving Officer Mayes and Britt appear below. Officer Meredith had one similar complaint which involved the detention of patrons at the Eagle Bar.

Prior Similar Allegations

<u>Officer Name</u>	<u>OPS #</u>	<u>Allegations</u>	<u>Findings</u>	<u>Other Officers Involved</u>
Officer Mayes	08-C-0004-MISC	Touched Testicles, Called a Knucklehead	Not Sustained	Officers Pettis and Wilson
Officer Mayes	10-C-0295-MISC	Threatened to Shoot Driver, Dropped Pants and Exposed Buttocks in Public	Not Sustained	Officers Ortiz and Pettis
Officer Mayes	10-C-0507-MISC	Searched Car After Refused Consent, Touched Waist	Not Sustained	Officers Britt and Crump
Officer Mayes	09-C-0387-MISC	Patron Accused Officer of Pointing Gun and Ordering other Patrons to Floor	Not Sustained	See Eagle Report Approximately 30 Officers Involved
Officer Britt	10-C-0507-MISC	See Above	See Above	See Above
Officer Britt	09-C-0425-UAF	Forcible Removal from Car (Excessive Force), Failure to Accurately Complete Report	Not Sustained – Excessive Force Sustained – Report	Officers Porter, Walters and Pettis

The Red Dog Unit has had similar allegations involving strip and cavity searches.

Officers	File Number	Allegations	Findings
Stallone Davis, Brandon Jackson, Christopher Lanier	09-C-0430-MISC	Stopped for defective brake light, removed from car, put a flashlight inside mouth, yanked front of his pants and searched car without consent. Officer Davis yanked his pants a second time and commented that he was not wearing underwear	Not Sustained
Stallone Davis, James Menzoian, Jason Overbaugh	ACRB 08-14	Stallone Davis Conducted a cavity search in an ambulance.	Investigation not completed because complainant did not cooperate. The cavity search was documented in the police report.
Victor Guevara, Darnell Perry, Derek Chao, and one unidentified Red Dog Officer	ACRB 10-24	Officers stopped him and pulled down his pants and underwear in public.	Sustained by ACRB. Not Sustained by APD

Without contrary evidence, the greater the number of previous allegations of a substantially similar act, the more likely that the current case should be sustained. The patterns of behavior exhibited by the officers suggest that the inappropriate search of the occupants occurred. The excessive force complaint was based on the pointing of the firearm and persons who were alleged to have run a stop sign. This is not a permissible use of force. Officer Mayes was identified by one of the patrons of the Eagle Bar as the officer who pointed a firearm at another patron (See p. 251 of Greenberg Taurig Report dated June 27, 2011). The other officers could not remember whether this happened. Each of the complainants said that it did occur. For these reasons, the Board voted to **sustain** the allegation of **Excessive Force** with regard to **Cayenne Mayes**. They further voted to recommend that he be terminated. The Board is aware that you have terminated Mr. Mayes; however, this recommendation is made in order to improve accountability and may be helpful in the event that Mr. Mayes prevails after a civil service hearing.

The Board further considered whether the three officers participated in a **false imprisonment** of Shawn Venegas and Brian Kidd. The Board found that given the conflicting statements by the officers about the location of the stop sign and the lack of any information in the police report concerning any other possible articulable suspicion that the officers did unlawfully imprisoned the two complainants. Although Brian Kidd had an outstanding warrant, his initial detention, the removal of his identification and the criminal records check performed by the officers was improper. For these reasons, the Board voted to **sustain** the

allegation of **False Imprisonment** against Officers Mayes, Britt, and Meredith. The Board voted to recommend termination for Officer Meredith because of the egregious nature of the search conducted. They further voted to recommend that **Officer Britt** be disciplined by the imposition of a **twenty day suspension**.

The Board further recommends that officers be properly trained about the limits of their authority to conduct strip and cavity searches. The Board is aware the Department is currently conducting similar training in order to comply with the Eagle Settlement, but would like for officers to be continuously reminded about the Standard Operating Procedures which govern these types of searches. Courts, and the general public, view strip and visual body cavity searches with great caution. A "strip search" has been defined as any removal or rearrangement of clothing which results in "any exposure or observation of a portion of a person's body, where that person has a reasonable expectation of privacy." See *Bell v. Wolfish*, 441 U.S. 520 (1970); *Arruda v. Fair*, 710 F. 2d 886, 887 (1st Cir. 1983); *Mary Beth G. v. City of Chicago*, 723 F.2d 1263 (7th Cir. 1983) ("*strip searches involving the visual inspection of the anal and genital areas are demeaning, dehumanizing, undignified, humiliating, terrifying, unpleasant, embarrassing, repulsive, signifying degradation and submission...*"). The Fourth Amendment requires that the greater the intrusion, the greater the reason for conducting a search. The driver of this car was merely accused of running a stop sign and appearing nervous. The passenger had a warrant for failure to appear on a traffic charge. Your policy requires that strip searches be conducted at a correctional facility and after a supervisor is advised of the need for the search. Your policy requires that cavity searches only be performed by qualified medical personnel. Given the number of complaints, it appears that officers have been ill informed about these standards.

Please let me know if you will need any further information or would like a copy of the investigation.

Sincerely,



Joy Morrissey,
Board Chair

cc: Mayor Kasim Reed
Council President Cesar Mitchell
Members of Atlanta City Council
ACRB Members

¹ Standards and Guidelines for Internal Affairs: Recommendations from a Community of Practice, US Department of Justice, Office of Community Oriented Policing Services, p. 52.