



February 14, 2011

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

RE: Complaint of Bluette Hector #10-51

Dear Chief Turner:

The Atlanta Citizen Review Board (“ACRB”) completed its investigation and adjudication of the complaint alleging that Officer Brian Thomas used excessive force when he arrested Bluette Hector on July 2, 2010.

Ms. Hector explained that she is a property manager for Stanford Village. Ms. Coleman was a tenant in the complex and she wanted to speak with her and advise her that she was not going to renew her lease because of the problems that they had with her two daughters. According to Ms. Hector, Ms. Coleman began to cry and began to leave. Her daughter, Tonia was standing outside the door. Tonia told her mother not to worry because she called and reported that Ms. Hector had struck her. Ms. Hector did not respond. She closed the door to her office.

About 15 minutes later, Officer Brian Thomas arrived and spoke with Ms. Coleman and her daughter. After speaking with them, Officer Thomas came into her office and spoke with her and Brian Smith. Mr. Smith is another employee of the apartment complex.

They each told the officer what happened and that she never struck Ms. Coleman’s daughter. He left her office and then returned and told Ms. Hector to put her hands behind her back. Ms. Hector stood and put her right hand behind her back and asked what was going on. She noticed the officer reach for his handcuffs and asked what was going on and, “what did they say to you?” She says that the officer only said, “Put your hands behind your back.” She asked him to call a supervisor but he refused. Officer Thomas placed a cuff on her right hand and she held up her left hand and pleaded with him to call a supervisor. Ms. Hector said Officer Thomas pulled her from behind her desk with the handcuffs and called for back-up. Officer Thomas twisted the cuff on her right hand and this caused her to fall onto her desk. She said that Officer Thomas kicked her left leg open, cuffed her left hand and pulled her straight up. He told her he was detaining her but did not tell her the reason.

He escorted her to the patrol car with the windows closed and no air conditioning. She complained that the handcuffs were too tight and she was in pain. Officer Thomas did not loosen them, instead, told her to be quiet. She continued to ask Officer Thomas to call a sergeant. She claims that he responded by saying, “They’ll be plenty when I get to the precinct.” He closed the car door and went to the rear of the car to talk to Ms. Coleman and her daughter.

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Another tenant and another officer arrived. She asked Ms. Wheat, the tenant, to walk over to the patrol car and open the door because it was extremely hot. Ms. Wheat did so. She told Officer Davis what happened and Officer Davis spoke with Officer Thomas. The other employee called Ms. Hector's son and Ms. Hector's son had a conversation with Officer Thomas on a cell phone. After the phone conversation, Officer Thomas told her that he was taking her to the precinct to be interviewed and processed. He then got into the patrol car and let her window down and closed the door. Officer Davis spoke with Officer Thomas again and Officer Thomas returned to the car and opened the door and said that he was going to let her go with a ticket for disorderly conduct. Ms. Hector said that Officer Thomas apologized and said, "I guess I can't apply for a courtesy officer's job here."

Ms. Hector said that she immediately went to Zone 1 to file a complaint and met with Sergeant (*now Lieutenant*) Johnny Hall on three separate occasions. She said that Lieutenant Hall told her that he told Officer Thomas that he could not arrest her and he would look into getting the charges dropped. Ms. Hector said that they were trying to resolve this matter; however, after reviewing Officer Thomas' statement in the police report, she decided to file a formal complaint with ACRB and OPS. The handcuffs resulted in red scars across her wrists, swelling and bruising. She provided photographs and she sought medical treatment for her injuries.

Brian Smith, the Maintenance Supervisor at the apartments, was interviewed and confirmed Ms. Hector's version of the incident. He added that it was very hot that day and she was in the car for approximately two hours before being released.

Lagretta Wheat, the resident was interviewed and said she was in Ms. Hector's office when Ms. Coleman and her daughter were present. She said Ms. Hector did not strike the daughter. She heard Ms. Coleman's daughter tell her mother that she was going to call the police and report that Ms. Hector struck her. Ms. Wheat returned to her apartment and received a call from Brian Smith asking her to return to the rental office. She responded and observed Ms. Hector in the back seat of the patrol car with the windows rolled up and no air conditioning. She went to the patrol car to find out what was happening. She told Officer Thomas that she was there and no one struck Ms. Coleman's daughter. Ms. Hector complained that the handcuffs were too tight and Ms. Wheat told the officer. He told her he would not loosen them and if she kept opening the patrol car door, he would arrest her. She repeated that Ms. Hector had done nothing wrong. He told her that she was resistant when he tried to detain her and he was going to arrest her for that. Officer Davis arrived and she explained what she saw and a short time later, he said that he thought they should let her go.

The police incident report submitted by Officer Thomas indicated that Ms. Hector apologized. Ms. Hector denies this and says it was Officer Thomas who apologized. The criminal case was dismissed. The reported temperature on July 2, 2010 was between 84-85 degrees. The photographs show bruising on her wrists.

Lieutenant Johnny Hall was interviewed. He said he became aware of the incident when Ms. Hector came to the precinct to file a complaint, but he also said that Officer Davis called and advised him of the situation. He did not recall specific details of the conversation but said Officer Davis told him that Officer Thomas was trying to arrest Ms. Hector based on a biased witness statement. Lieutenant Hall told Officer Davis that he could not arrest her based on that

one witness. Ms. Hector went to the precinct to discuss the matter; however, he claims that he could not recall the details of their conversation. He did recall telling Ms. Hector that he would work on trying to get the citation, "pulled," but he had to talk to Officer Thomas before doing so. He said he didn't speak with Officer Thomas about the incident because their off days did not coincide and then shortly thereafter, he was transferred. He stated that Ms. Hector complained of injuries to her wrist but he did not see signs of injuries.

Officer Davis said he responded to the apartment complex for an officer in need of assistance. He saw Ms. Hector in the backseat of the patrol car. Initially, Officer Davis said that he didn't speak to anyone except Officer Thomas. However, after further questioning, he stated that he spoke with a couple of the witnesses. He called Lieutenant Hall (*then Sergeant*) from his cell phone because Ms. Hector requested a supervisor. Officer Davis was asked if anything else was discussed with Lieutenant Hall and he replied that indeed, nothing else was discussed. However, he then stated he told Lieutenant Hall that he needed to come to the scene because it did not seem right that Ms. Hector was being arrested. He did not recall whether Lieutenant Hall gave him specific instructions. He was asked about his conversations with Officer Thomas and could not provide details of the conversation and evaded the question. He said that Officer Thomas told him there were conflicting stories and Hector refused to allow him to detain her. He said that Ms. Hector did complain about the handcuffs but only after they had been removed.

Officer Thomas said that he responded to the apartment complex for a report of a dispute. He was met by the caller, Tonia Coleman, who said she was involved in an argument with Ms. Hector and that Ms. Hector pushed her. He went into the office and spoke with Ms. Hector and then went back outside and spoke with Tonia's mother. Tonia's mother corroborated her daughter's version. Based on that information, Officer Thomas went to Ms. Hector's office and advised her that he was going to detain her. He placed one cuff on Ms. Hector's right wrist and she started to pull away and because of the resistance, he called for assistance. After they struggled for a few minutes, he managed to handcuff her second wrist and took her to the back seat of his patrol car. He was going to charge her with assault or battery. He insisted that he was only detaining her and not placing her under arrest. As the interview continued, Officer Thomas admitted that initially, he was going to take her to jail but after speaking with Sergeant Hall, he chose not to. He said that Sergeant Hall told him that he could not charge Ms. Hector with simple assault based on the mother's statement. He said that Hall told him to charge her with disorderly conduct and give her a copy of the charges in lieu of arrest. He said she was in the patrol car for no longer than 10 minutes but could not recall if the windows were up or down. He said that Ms. Hector complained about the handcuffs and he thought he loosened them but could not say with certainty. He noticed a mark on her left wrist when he eventually removed them. He claims that she received the injury when he was trying to handcuff her. He offered to get her medical attention but she refused. He claims that she apologized to him.

Ms. Hector produced proof of her injuries and medical records. The length of the detention appears to be about one hour. Ms. Hector's statement was supported by witness statements. While Officer Thomas denies this allegation and claims she was in the patrol car for only 10 minutes, he could not recall if the windows were up or down. He acknowledged the complaint about the handcuffs but could not say whether he made any attempt to loosen them. This type of injury can result in a Civil Rights claim of excessive force. See: Wall v. County of Orange, #02-56032, 364 F.3d 1107 (9th Cir. 2004); Vondrak v. City of Las Cruces, No. 07-2148, 535 F.3d 1198 (10th Cir. 2008); Turek v. Saluga, #01-3986, 01-4018, 47 Fed. Appx. 746 (Unpub. 6th Cir. 2002); Polk v. Hopkins, #04-1130, 129 Fed. Appx. 285 (Unpub. 6th Cir. 2005).

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The Board considered the nature of the offense, the nature of the complainant's danger to the public and the officer, the length of time and the manner in which Ms. Hector was detained in concluding that Officer Thomas used excessive force to detain Ms. Hector. Ms. Hector is 61 years old and was charged with Disorderly Conduct. There were no other threats to the safety of the officer. This occurred in July and witness accounts that are corroborated by the CAD record support that Ms. Hector was seated in the patrol car for at least one hour. It is well known that it can become dangerously hot inside of motor vehicles which are not ventilated. For these reasons, the Board voted to **sustain** the allegation of **Excessive Force** with regard to Officer Thomas.

The Board further noted that the statements of Officer Thomas and Lieutenant Hall differed about when Lieutenant Hall learned about the nature of Ms. Hector's arrest and the instructions that he issued on the day of the arrest. This was troubling.

The Board then considered the officer's complaint history in order to recommend the appropriate discipline. Officer Thomas was hired in 2003. He has had seventeen (17) complaints filed against him. Ten (10) of those resulted in a finding of sustained; three (3) were not sustained; one (1) was exonerated and three (3) are still pending. OPS investigated Ms. Hector's complaint (10-C-0383 UAF). The Atlanta Police Department exonerated the complaint of excessive force and sustained a violation of your rule requiring that an officer take appropriate action. Officer Thomas was issued a written reprimand. Of particular concern is that Officer Thomas has a sustained violation involving truthfulness. In 2004, Officer Thomas obtained a bullet proof vest from the Atlanta Police Department Property office and gave it to a friend. He initially lied about it when he was questioned by the Office of Professional Standards. In 2004, he was accused of stealing money and the CVSA administered, to both parties, showed deception, but the complaint was not sustained. He has other complaints in his disciplinary history which may reflect on his ability to perform as a law enforcement officer. For this reason, the Board recommended that you impose a fifteen day suspension without pay.

Please let me know if you have any questions or would like to have a copy of the full investigation. The ordinance requires the Chief to 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.

Sincerely,



Joy Morrissey
Board Chair

cc: Mayor Kasim Reed
Council President Caesar Mitchell
Members of Council
ACRB Board Members