



# Analysis of the BCA's Investigation of the Shooting of Jamar Clark

**Fact Sheet #1**

This fact sheet is the first in a series that will focus on failures by the BCA to conduct a valid investigation and provide meaningful reports regarding the homicide of Jamar Clark. In light of the current practice of turning to the BCA for independent and professional investigation of officer-involved homicides, such an examination is particularly relevant. Comments, corrections, and additions to these analyses are invited.

***“... which means those keepers came loose?”<sup>1</sup>***

**Executive Summary:** Based on the record established in this case, the movement of Officer Ringgenberg's holster and gun to the small of Officer Ringgenberg's back as he claimed, and which the BCA uncritically confirmed, and which the County Attorney and U.S. Attorney consequently found to be exactly what happened that night, defies the laws of physics. So much for the BCA's so-called independent, professional, “science-based” investigation.<sup>2</sup>

By Officer Ringgenberg's account to the BCA investigators, while he was on top of Jamar Clark on the ground his holster and revolver moved to the small of his back where Clark, according to Officer Ringgenberg, “had” his gun and Ringgenberg was unable to secure it, placing Ringgenberg and his partner Officer Schwarze in fear for their lives, thereby allegedly justifying Officer Schwarze's shooting Clark in the head, mortally wounding him. In this report, we examine Officer Ringgenberg's pivotal assertion that his holster and gun moved to the small of his back where he was unable to secure it. Our examination starts with a look at the officer's basket weave leather duty belt seen from the back after the shooting:



Photo 19 of 21 photos taken of Officers Schwarze and Ringgenberg at the 4<sup>th</sup> Precinct Station approximately three hours after the shooting, by MPD photographer Forensic Scientist (FS) Jenna R. Christenson.

From left to right, Photo 19 shows:

1) Part of the officer's radio sticking up over the officer's flashlight in flashlight holster;

2) Flashlight in its leather holster;

3) Right next to the flashlight, one of Officer Ringgenberg's five keepers, each of which holds the duty belt to the officer's underlying pants belt (the underlying pants belt is referred to by the BCA interviewer as the officer's “inner belt”); as explained by Officer Ringgenberg in response to questioning from the BCA Investigator: “[A keeper] holds your, your duty belt to your inner belt. So it [the keeper] holds it [the duty belt] in place so it [the duty belt] won't move around.”

4) Continuing counterclockwise, we see about ten inches of basket weave leather duty belt crossing over two pants belt loops through which the officer's inner belt has been passed; under this 10 inch length of duty belt, the pants belt loops are seen narrowly sticking out below the duty belt: one about two inches to the right of the left keeper and another

at the small of the back (center of the waist) two inches to the left of the right keeper;<sup>3</sup>

5) Starting to the right of the right keeper, we see approximately 2.5 inches of the duty belt completely covering the inner belt but crossing a third belt loop, of which we see a narrow bottom strip emerging below the duty belt approximately 1.5 inches to the right of the right keeper, equidistant between the right keeper and the handcuff holder;

6) Approximately 1.5 inches to the right of the third belt loop shown in this photo begins the handcuff holster;

7) Holster containing pistol at the officer's right hip. Note: As described by Officer Ringgenberg in his BCA interview, between the handcuff holder and the pistol (but blocked from view in this photo by the handcuff holder) is keeper “directly next to it [the gun].” And immediately in front of the pistol is another keeper “directly next to it [the gun]”<sup>4</sup>

**Source:** Transcript of BCA interview of Officer Ringgenberg at pages 251-252 of the 1277 page document entitled “BCA Reports 1-122” online at <http://www.hennepinattorney.org/-/media/Attorney/NEWS/2016/jamar-clark-case/bca-reports-1-122.pdf?la=en>.

So what are keepers and why are they so relevant in assessing the credibility of Officer Ringgenberg's unsupported assertion<sup>5</sup> that his holster and gun went to the small of his back?

**BCA Investigator:** Okay. And when you say keepers, what is a keeper?

**Officer Ringgenberg:** Ah it holds your, your duty belt to your inner belt. So it holds it in place so it won't move around.

**BCA Investigator:** Okay. Is yours snap or Velcro?

**Officer Ringgenberg:** Ah mine's snap they there's ah two buttons or two snaps on each keeper.

**BCA Investigator:** Okay two snaps on each keeper. You've got four of them total.

**Officer Ringgenberg:** Ah five total.

**Source:** Transcript of the BCA Interview of Officer Ringgenberg, page 252 of the 1277 page document entitled "BCA Reports 1-122."

And the BCA Investigator knows what keepers are and do, as well.

**BCA Investigator:** Five total and that's designed to keep your belt stable when you have to move, run, jump do any of that stuff keep your belt stable on you're the belt around your pants?

**Officer Ringgenberg:** Yes.

**Source:** Transcript of the BCA Interview of Officer Ringgenberg, page 252 of the 1277 page document entitled "BCA Reports 1-122"

So Officer Ringgenberg had five keepers arranged around this duty belt in all, each designed to hold the duty belt in place "so it won't move around" with each keeper held in place by two snaps, at least several of which would need to **simultaneously** and **unprecedentedly** go AWOL to allow to happen what the officer claimed happened.

### **Ringgenberg's Account Requires Simultaneous Failure of Multiple Keepers**

The fact that multiple keepers would have had to simultaneously fail to allow the holster movement claimed by Officer Ringgenberg was recognized by the BCA investigator when he stated:

**BCA Investigator:** And in this situation you're lying on your back and side and you feel the weapon is actually pulled to the small of your back **which means those keepers came loose?**

**Source:** Transcript of the BCA Interview of Officer Ringgenberg, page 259 of the 1277 page document entitled "BCA Reports 1-122"

The BCA investigator's understanding that for Officer Ringgenberg's holster and gun to move to the small of the officer's back it must have been that "*those keepers came loose*" is consistent with the physics of the situation. In addition to their power to bind the inner and duty belts together so as to prevent the duty belt to rise or rotate independently of the inner belt,<sup>6</sup> each keeper is positioned in proximity to a pants belt loop through which the inner belt passes but the duty belt does not. Consequently, even if a duty belt could move independently of the inner belt, any rotational (horizontal) movement of the duty belt clockwise or counterclockwise would be halted as soon as any operative keeper encountered a nearby pants belt loop. Simply put, a keeper running into a belt loop can move no further and as a result any further movement of the duty belt in that direction is halted.

Applying this understanding to Officer Ringgenberg's keepers, for example, the keeper to the right of the officer's flashlight would halt movement of the belt to the right (counterclockwise) when it encountered the inner belt loop to its right. Likewise, the keeper two inches to the right of the back center belt loop would halt horizontal movement of the belt to the left (clockwise) after two inches when it encountered the inner belt loop at the center (small) of the officers back, which would leave the officer's holster and gun securely in place a mere two inches back (counterclockwise) from its original position—hardly at the center or small of the officer's back, as he claimed. In such a position (two inches back from its normal position) the officer would clearly not have had the trouble he claimed to have in exerting adequate pressure on his gun to secure it.

### **Simultaneous Failure of Multiple Keepers**

Even Officer Ringgenberg acknowledged the apparent incomprehensible and extreme nature of his narrative:

**BCA Investigator:** And in this situation you're lying on your back and side and **you feel the weapon is actually pulled to the small of your back which means those keepers came loose?**

**Officer Ringgenberg:** I don't remember if they came loose or not but I (sigh) it's never happened to be me before that somehow the whole, the whole gun the whole thi...

**BCA Investigator:** Holster and everything?

**Officer Ringgenberg:** Everything went to the small of my back.

**Source:** Transcript of the BCA Interview of Officer Ringgenberg, page 259 of the 1277 page document entitled "BCA Reports 1-122"

Note that Officer Ringgenberg himself backs away from explaining the movement of the holster and gun on a failure of the keepers, stating that he *doesn't remember* whether the keepers came undone or not. Since his keepers appear quite intact in the photos taken at the 4<sup>th</sup> Precinct Station after the shooting, it is highly unlikely that the officer did not know or

“forgot” whether the keepers came undone or not and whether he had to re-set them before the photos were taken. His retreat into simply saying only that the holster movement happened “somehow” is a retreat into mystery, where things are accepted on faith (or prejudice) rather than on reason and empirical facts. In essence, the officer’s position which the BCA accepted was: *“You can take my word for it; I do not know how it happened, but it really happened.”* More non-science nonsense.

**Video Available to BCA Investigators Before They Interviewed the Officers Conclusively Refutes Officer’s Account Re: Asserted Holster/Gun Movement to the Small of His Back**

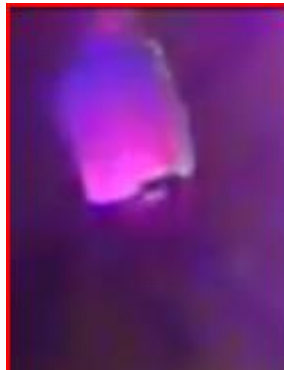
The video taken from the rear of the ambulance clearly refutes the notion that Officer Ringgenberg’s holster/gun ever moved to the small of his back as he claimed and as the BCA appears to have accepted without question. The video, which had been made available to the BCA prior to its interview of the officers and should have been processed carefully before and after the officers’ interviews, indicates that the keepers that Officer Ringgenberg said he had on either side of the holster apparently did come unsnapped that night, allowing the duty belt and holster to rise **vertically**, straight up from his hip when Officer Ringgenberg, having regained his feet after Clark was shot, attempted to pull his gun from the holster to aim it toward the Elks Club. The video also shows the duty belt rises at a distinct 30 degree **angle from the center of the officer’s back**, indicating that the keeper to the right of the center back belt loop remained snapped, and, as soon as it encountered the center belt loop, stopped the belt from moving **horizontally (clockwise)** any more than a maximum of two inches.

The entire ambulance rear video is online and the sequence in question is time stamped 06:50:15 to 06:50:26.<sup>7</sup> However, to view it clearly, the video must be subjected to a frame-by-frame analysis at key portions or important information can be missed. The BCA did not conduct or present any frame-by-frame analysis in any of its reports and its failure to do so is a **major flaw in its investigation**.

Here are still shots from that video showing that the keepers Officer Ringgenberg placed on either side of his holster must have given way to allow the vertical rise of the duty belt (holster and gun attached) above the officers right hip, preventing him from removing his gun) but that the keeper to the right of the center back belt loop clearly held, which would have the inevitable effect of preventing the duty belt holster/gun from moving **horizontally** more than two inches, to the small of Officer Ringgenberg’s back, as the officer claimed.



00:50:17



00:50:19



00:50:20

In addition to the implausible physics of Officer Ringgenberg’s account and the clear video evidence shown above contradicting it, the BCA interviewers should have noticed that the officer’s asserted “failure to remember” whether or not the keepers came unsnapped telegraphed that there was a major problem with the officer’s assertion that the holster and gun had “somehow” gone to the small of his back. As shown in the video (00:50-17 – 00:50:21), because of the vertical rise of the duty belt carrying holster and gun, Officer Ringgenberg is unable to remove his gun from the holster. It is highly unlikely that an officer prevented from drawing his gun due to unsnapped keepers would not remember such an occurrence, especially when he (or someone for him) re-snapped the keepers on either side of his holster before the official photos were taken at the 4<sup>th</sup> Precinct. Instead, the BCA apparently accepted as fact that all the relevant keepers must have somehow simultaneously “come undone” allowing an occurrence that Officer Ringgenberg himself could not remember lock, stock, and barrel. Or did the BCA Investigator actually know that Officer Ringgenberg had blown that part of the interview quite utterly and rushed to change the subject? Note that the BCA investigator interrupts Officer Ringgenberg mid-sentence after hearing Officer Ringgenberg offer his implausible (“somehow”) non-explanation and swiftly moves on.

**BCA Investigator:** And in this situation you're lying on your back and side and you feel the weapon is actually pulled to the small of your back which means those keepers came loose?

**Officer Ringgenberg:** I don't remember if they came loose or not but I (sigh) it's never happened to be me before that somehow the whole, the whole gun the whole thi...

**BCA Investigator:** Holster and everything?

**Officer Ringgenberg:** Everything went to the small of my back.

**BCA Investigator:** Okay.

**Officer Ringgenberg:** So

**BCA Investigator:** So now the things you were taught with retention, grabbing it, pushing it down, clamping it down you couldn't do it because it was in the small of your back? And you made a motion that you used the back of your hand to try to hold it?

**Source:** Transcript of the BCA Interview of Officer Ringgenberg, page 259 of the 1277 page document entitled "BCA Reports 1-122"

Even if the BCA had somehow not seen or missed the conclusive video evidence cited above before interviewing Officer Ringgenberg, the reasonable common sense approach in the course of a homicide investigation would be to assess the credibility of Officer Ringgenberg's assertion (that his holster and gun went to the small of his back so that he was unable to secure it) by seeing whether the asserted result could be replicated, including his claim that he was unable to reach and secure the gun at the small of the back even though concealed guns are routinely carried and accessed in holsters that are placed at the small of the back<sup>8</sup> and are not unreachable or touchable only by the back of the carrier's hand, as Officer Ringgenberg stated was all he could do.<sup>9</sup>

When, for example, a scientist reports that he has had certain novel results from a particular experiment, the scientific world sets out to confirm or reject the claim by attempting to replicate the experiment. There is nothing in the BCA's reports that documents any such attempt. In this case, the officer is not even asked to give a rational explanation for the asserted occurrence. The most the officer says (and the most the BCA, the County Attorney, and the US Attorney can say) is that "somehow" this holster/gun movement happened. And they know it happened, apparently, because the officer (unconfirmed by ANY witness—see Footnote 5) says it happened. Some scientific inquiry, that.

### **Summary**

Based on these photos, the video, and a basic understanding of the use and function of keepers, it is clear that any movement of the duty belt and its attached holster clockwise (in the direction of the small of the officer's back) would have been halted after about two inches movement due to the existence of keepers that were operative to the right of a belt loop.

*To illustrate:* The keeper two inches to the right of the middle of the back inner belt loop and ten inches or so from the holster on the officer's right hip would have been sufficient in and of itself to prevent the movement of the holster to the small of Officer Ringgenberg's back after a movement of two inches, i.e., as soon as it encountered the belt loop in the middle of (small of) the officer's back.<sup>10</sup> In short, to allow the movement claimed by Officer Ringgenberg, all three keepers would have had to simultaneously come undone, as recognized by the BCA investigator: ". . . which means those keepers came loose?"

### **Conclusion**

As the record cited here shows, it is not physically possible for Officer Ringgenberg's duty belt and its accompanying holster and pistol to be moved to the degree he has claimed given the placement of keepers explicitly set in place to prevent such movement, several of which standing alone are capable of preventing such an occurrence.

To accept a physically impossible scenario and present it as "*what really happened that night*" does not require a scientific mind, it requires a mind blinded by prejudice, whether that prejudice be conscious or unconscious. The BCA's failure in the course of its investigation and reports to the County Attorney and continuing silence to date to note the incredibility of the officer's claim on this pivotal point and that it is contrary to the video as demonstrated above is a major failure and has led to a cascade of injustice posing as "scientific" and "independent" analysis. Additional examples of this kind of failure will follow in subsequent fact sheets.

There is no way to sugar-coat this: Based on the officer's own statements, the photos taken that night of the officer's equipment, and the video taken from the rear of the ambulance, Officer Ringgenberg's claim (supported by no other witness) that his holster and revolver went from his right hip to the small of his back so that he was unable to secure it, if needed, are not credible and any investigation worthy of the name would have said so.

<sup>1</sup> **Source:** BCA Lead Investigator Michael Phill, Transcript of the BCA Interview of Officer Ringgenberg, page 259 of the 1277 page document entitled "BCA Reports 1-122" placed online by the Hennepin County Attorney at <http://www.hennepinattorney.org/-/media/Attorney/NEWS/2016/jamar-clark-case/bca-reports-1-122.pdf?la=en>. A searchable version is available at <https://drive.google.com/file/d/0B5xMDzO6AKVOSWs3VDdSYnllVUE/view>

<sup>2</sup> Note that following the BCA's inadequate investigation subsequent decisions by the County Attorney and US Attorney not to prosecute in this case were contaminated up front by the BCA's failure to hold the officer's account to the light of reasonable scientific inquiry required of any criminal investigation or even common sense inquiry. Subsequent sections of our Inquiry will address additional failures of the BCA to conduct a valid investigation into the death of Jamar Clark.

<sup>3</sup> In Photo 19, the inner belt is completely covered by the duty belt but in Photo 13 it can be clearly seen above and behind the duty belt's plastic buckle. As it circles the officer's waist, the inner belt passes through several pants belt loops. In Photo 19, we see three such loops and in photo 13 we see two more, equidistant from the fly. The BCA requested the officers' shirts and pants for analysis in early December 2015 but in its reports has provided no photos of the pants without the duty belt to confirm whether there are or are not belt loops at the hips of the pants. Based on the spacing of the belt loops shown in Photo 19 and 13, it is likely that there are two additional belt loops (one at each hip) for a total of seven.

<sup>4</sup> As Officer Ringgenberg described in his interview with the BCA, he had a keeper on either side of the holster, "directly next to it". He stated: ". . . On either side of my gun directly next to it I have a keeper." **Source:** Transcript of the BCA Interview of Officer Ringgenberg, page 259 of the 1277 page document entitled "BCA Reports 1-122"

<sup>5</sup> No witness stated that they saw Officer Ringgenberg's holster and gun at the small of his back while he lay on top of Clark as the officer has asserted. Nor have any of them stated that they saw Officer Ringgenberg pull his gun back to his right hip after Clark was shot and Officer Ringgenberg regained his feet. Even his partner Officer Schwarze does not say that he saw Ringgenberg's holster pulled over to the small of his back during the time Ringgenberg and Clark were on the ground, nor does he say that he saw Ringgenberg, once he was back on his feet, pull the holster and gun back around from the small of his back to its normal position. Despite being prompted by the BCA Inspector to say something about Officer Ringgenberg's duty belt, all Officer Scwwarze says in describing what Officer Ringgenber did after getting up after the shooting was this:

**BCA Investigator:** Okay. Um when you, after the shot was fired, Mark gets up do you remember seeing Mark's belt at all? Do you see his duty belt?

**Officer Schwarze:** I remember him being disheveled. I just remember him kinda of shifting around. Like when he stood up I think he was, he was trying to, he was trying to get up so fast and when he got up I, I don't remember exactly like looking at his uniform or his belt but I just remember him trying to, trying to get his bearings back.

**Source:** Transcript of the BCA Interview of Officer Ringgenberg, page 259 of the 1277 page document entitled "BCA Reports 1-122"

<sup>6</sup> Note that in addition to the keepers preventing significant horizontal movement of the duty belt, Officer Ringgenberg's duty belt and holster and handcuff holster also have design features that attach them securely to the duty belt and impede them from slipping "somehow" horizontally along the duty belt. A photo taken of Officer Ringgenberg's duty belt, holster, and handcuff holster at the BCA Lab shows these features. Here is Photo 6 of 6 online at <http://www.hennepinattorney.org/-/media/Attorney/NEWS/2016/jamar-clark-case/photos-BCA-crime-lab.pdf?la=en>. You can enlarge the photo as needed to better see these features.



First, on the right side of the duty belt, we are shown the inner lining of the belt. The inner lining's surface is conspicuously rough-textured, which impedes horizontal movement of the duty belt right or left over the inner belt, which is also a non-smooth, irregular surface. Second, the holster is held in place on the duty belt by a curved "attacher" whose legs are arched to dig in against the inner belt and belt loops and which requires the belt to weave in and out of the curved "attacher," further inhibiting slippage. Third: the handcuff holster is attached to the belt with open space at either end so that if the "attacher" or any object comes at it from holster side, the handcuff holster will be tipped, causing the far side of the handcuff holster to bend into the duty belt, bunching or pressing in against the duty belt, inhibiting slippage. This photo (as well as Photo 19 above) also shows that both the keeper (to the right of the center belt loop in Photo 19) and the handcuff holster (shown in both Photo 19 and this Photo 6) would block the holster from reaching the small of the officer's back.

<sup>7</sup> The video is available at <https://www.youtube.com/watch?v=dGol1yDU5Ho&feature=youtu.be>. The time stamp shows Greenwich Mean Time, which is six hours ahead of our Central Standard Time (CST). So when it says 06:50:15 it means 00:50:15 our time (CST).

<sup>8</sup> You can google "gun holsters small of the back" and get much information and examples of this. <https://www.google.com/search?q=gun+holsters+small+of+the+back&ie=utf-8&oe=utf-8>.

<sup>9</sup> See Transcript of the BCA Interview of Officer Ringgenberg, pages 259-260 of the 1277 page document entitled "BCA Reports 1-122"

**BCA Investigator:** So now the things you were taught with retention, grabbing it, pushing it down, clamping it down you couldn't do it because it was in the small of your back? And you made a motion that you used the back of your hand to try to hold it?

**Officer Ringgenberg:** I was trying, I was at such a weird angle and with him under me I was trying to get my hand back there so I could lock my gun into my holster and I would know where it, where it is. But all I could really do was get the back of my hand on top of it.

<sup>10</sup> An additional block to movement of the holster and gun to the small of Officer Ringgenberg's back, of course, is the placement of a handcuff holster between the right keeper and the gun holster. See Photo 19 above.





# Analysis of the BCA's Investigation of the Shooting of Jamar Clark

**Fact  
Sheet  
#2**

This fact sheet is the second in a series that will focus on failures by the Minnesota Bureau of Criminal Apprehension (BCA) to conduct a valid investigation and provide meaningful reports regarding the homicide of Jamar Clark. In light of the current practice of turning to the BCA for independent and professional investigation of officer-involved homicides, such an examination is particularly relevant. Comments, corrections, and additions to these analyses are invited.

## **In Making Its Determination, the BCA Ignored the Statements of the Twenty Civilian Witnesses its Agents Interviewed**

### ***1. The BCA ignored the overwhelming consensus of the civilian witnesses that Jamar Clark was handcuffed at the time he was shot.***

Hennepin County Attorney Mike Freeman stated that the witnesses were divided on the handcuff issue. Yet by his own tally, twelve witnesses said they saw handcuffs, two witnesses did not, and 6 were unsure.<sup>1</sup> One witness in the “no handcuffs” category said later in the interview that she wasn’t sure, because she was too busy with Facebook and “wasn’t too much paying attention.”<sup>2</sup> Several of the witnesses whom Freeman listed as “not sure” stated that, from the way Clark’s hands seemed to be immobilized behind his back, it looked like there were handcuffs, but they didn’t actually see the cuffs. By contrast, the witnesses who said they saw handcuffs spoke quite confidently of that assertion, holding to their statements under repeated questioning by the BCA interviewer. Three identified the color of the cuffs (silver).<sup>3</sup> Several described seeing an officer putting on the handcuffs, while four saw the officer remove one cuff before Clark was placed in the ambulance after the shooting.<sup>4</sup> And one of the “not sure” witnesses says that when Clark was being placed in the ambulance he saw something dangling from Clark’s wrist that looked like a handcuff.<sup>5</sup> These statements are highly compelling in their consistency, yet they were discounted by Freeman and appear to have been ignored by the BCA.

### ***2. The BCA’s conclusion that Officer Ringgenberg told Officer Schwarze that Clark had his gun was based entirely on the statements of the two officers and ignored strong evidence to the contrary.***

Officer Schwarze stated that Ringgenberg “screamed” three times that Clark had his gun.<sup>6</sup> Many of the civilian witnesses interviewed by the BCA were close enough to have heard this, but none provide any support for the officers’ account. The witnesses report hearing one of the paramedics tell Clark to step back from the ambulance.<sup>7</sup> Some report the conversation between Clark and the paramedic, and many heard Clark curse at the medic and at the police.<sup>8</sup> One witness heard an officer call for backup.<sup>9</sup> Yet not a single one of these witnesses heard Ringgenberg scream for help. No one heard Schwarze tell Clark to let go of the gun or he would shoot. And no one heard Clark say he was ready to die. One witness says that after the shot was fired Ringgenberg looked surprised.<sup>10</sup> Yet the BCA accepted the uncorroborated allegations of the two officers as correct, apparently never even considering that their story might have been concocted after the fact in an attempt to justify their actions.

### ***3. The BCA ignored the nearly unanimous statements of the civilian witnesses that Clark did nothing to provoke the officers to attack him.***

All but one of the twenty witnesses report that Clark was not being uncooperative. The only exception was one witness who says he fought the police, but this was the witness who said she was looking at Facebook and wasn't really paying attention.<sup>11</sup> The others state that, when asked to step away from the ambulance, Clark complied. Some report that he cursed at the paramedic and at the police.<sup>12</sup> But there is overwhelming agreement that he did not interfere with the paramedics or the officers in any way. Yet Ringgenberg pulled out his gun as he approached Clark, for no apparent reason. Seconds later he took Clark to the ground, using a tactic that is not approved by the Minneapolis Police Department and that caused Ringgenberg to find himself lying on his back on top of Clark, in a potentially vulnerable position. The BCA apparently never considered that the officers' rapid escalation of tactics might have been the result of unreasonable fear rather than due to any action on Clark's part. The BCA's blind acceptance of the officers' story contradicts the overwhelming testimony of the witnesses that Clark did nothing that justified being killed.

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<sup>1</sup> <http://www.hennepinattorney.org/-/media/Attorney/NEWS/2016/jamar-clark-case/speech-clark-chronology-3-30-16.pdf?la=en>, p. 9.

<sup>2</sup> Statement of Tameisha Byrd, p. 7, p. 144 of 1277.

<sup>3</sup> Statement of Joseph Gipson, p. 5, p. 285 of 1277. Statement of Nekelia Sharp, p. 8, p. 335 of 1277. Statement of Kiesha Steele, p. 7, p. 385 of 1277.

<sup>4</sup> Statement of Tequila Dillon, p. 10, p. 106 of 1277. Statement of Joseph Gipson, p. 13, p. 293 of 1277. Statement of Kiesha Steele, p. 2, p. 380 of 1277; p. 7, p. 385 of 1277. Statement of adult female (name redacted), p. 4, p. 1257 of 1277.

<sup>5</sup> Statement of Derrel Gross, p. 13, p. 315 of 1277; p. 16, p. 318 of 1277.

<sup>6</sup> Statement of Officer Dustin Schwarze, p. 5-6, p. 224-225 of 1277.

<sup>7</sup> Statement of Joseph Gipson, p. 2, p. 282 of 1277; p. 5, p. 285 of 1277. Statement of Kiesha Steele, p. 2, p. 380 of 1277; p. 5, p. 383 of 1277. Statement of Nekelia Sharp, p. 4, p. 955 of 1277.

<sup>8</sup> Statement of Jerome Copeland, p. 5-6, p. 186-187 of 1277. Statement of Derrel Gross, p. 2, p. 304 of 1277; p. 13, p. 315 of 1277. Statement of Nekelia Sharp, p. 3, p. 330 of 1277; p. 9, p. 336 of 1277. Statement of juvenile witness (name redacted), p. 12-14, p. 720-722 of 1277. Statement of Nekelia Sharp, p. 4, p. 955 of 1277. Statement of adult female (name redacted), p. 6-7, p. 1259-1260 of 1277.

<sup>9</sup> Statement of Joseph Gipson, p. 12, p. 292 of 1277.

<sup>10</sup> Statement of Tondalaya Thompson, p. 5, p. 497 of 1277; p. 7, p. 499 of 1277.

<sup>11</sup> Statement of Tameisha Byrd, p. 7, p. 144 of 1277.

<sup>12</sup> See note 8 above.



# Analysis of the BCA's Investigation of the Shooting of Jamar Clark

**Fact  
Sheet  
#3**

This fact sheet is part of a series that focuses on failures by the Minnesota Bureau of Criminal Apprehension (BCA) to conduct a valid investigation and provide meaningful reports regarding the homicide of Jamar Clark. In light of the current practice of turning to the BCA for independent and professional investigation of officer-involved homicides, such an examination is particularly relevant. Comments, corrections, and additions are invited.

## Whose Silver, Hinged, Open Handcuffs Are These?



Are the handcuffs pictured above the handcuffs that Officer Schwarze used in his confrontation with Jamar Clark on the night of November 15, 2016? In his Report and decision not to file charges against the officers in the death of Jamar Clark, the County Attorney presents them as such and has relied heavily on the BCA's DNA analysis of these handcuffs in his Report to conclude that at no point was Jamar Clark handcuffed by Officers Ringgenberg and Schwarze.<sup>1</sup>

Analysis of witness statements (MPD officers and HCME Paramedic staff), however, raise serious questions about the identity and source of the handcuffs pictured above, questions that we believe a competent, thorough, and truly independent investigation should and would have addressed.

**ANALYSIS:** Pictured above are the handcuffs that were found at the scene by the MPD Forensics Team, photographed by MPD Forensics photographer Chistensen, and collected into evidence by MPD Forensic Scientist Lenway on November 15, 2015 approximately 2.5 hours after Jamar Clark was transported from the scene to HCMC.

Discrepancies between how MPD officers and medics on the scene described the handcuffs they saw and handcuffs appearing in the official MPD forensics photo, together with the large amount of time (2.5 hours) that elapsed before handcuffs were collected into evidence raise questions about whether the handcuffs photographed and collected into evidence by the MPD Forensics Team were the handcuffs that the witnesses said they saw near Jamar Clark 2.5 hours previously.

Compounding concern for the validity of the lab analysis of the handcuffs is the fact that the MPD's Forensics Team was not notified of the crime scene until 2:30AM (1 hour and 40 minutes after Jamar Clark was shot) and even then was directed to report not to the crime scene, but to the 4<sup>th</sup> Precinct Station to photograph the officers and relieve them of their pistols and holsters, so that they did not arrive to the crime scene until much later and did not begin processing the scene until after briefings by officers in charge. During this timeframe,



numerous MPD officers, many of whom already knew that handcuffing was a large community concern in this case, had access to the crime scene, presenting opportunity and motive for switching handcuffs and/or otherwise tampering with them.

Over the course of this investigation, investigators for the MPD, BCA, and CA's Office appear to have taken no interest in pursuing the discrepancies between witness accounts and the 3:30AM photo so as to ensure the integrity of the investigation on that basic point.

Discrepancies between witness testimony and the photo ignored by BCA investigators and County Attorney include these:

- MPD Officer Jason Reimer, arriving on the scene shortly after JC was shot says he thinks the handcuffs were **chain handcuffs**, not hinged handcuffs as shown in the photo above. See BCA Report 61, page 751. His testimony: the handcuffs he saw were chain, not "hinged" as shown in the photo.
- HCMC Paramedic Lupkes, arriving on the scene shortly after JC was shot says he saw a set of hinged handcuffs in the grass that **were closed**. BCA Report 117, page 1234. His testimony: the handcuffs he saw were closed, not "open" as shown in the photo.
- MPD 23-year veteran officer (name redacted) says "... they picked him up, put him on the stretcher um once they did that **I saw a pair of ah black handcuffs** laying in the grass." His testimony: the handcuffs he saw were black, not silver handcuffs as shown in the photo.
- EMS Supervisor Michael Trullinger says this before being interrupted by a cell phone call to the MPD interviewer: "...what I did notice when I came back out to the patient was **there was a pair of handcuffs near the patient on the ground that were not . . .**" [interrupted by cell phone ringing] Witness Trullinger was never asked to complete his thought/sentence and in the months that followed, none of the investigators seemed interested to know how EMS Supervisor Michael Trullinger was about to conclude his sentence about the handcuffs. The flow of this sentence suggests that he was about to say that the handcuffs that he saw "near the patient on the ground" immediately upon exiting the ambulance a few seconds after the shot were not "open". This appears to be a logical conclusion to his sentence since he has already stated where the handcuffs were located and so appears ready to provide an additional detail about the handcuffs he saw: something that they were "not". If so, his completed statement that the handcuffs he saw were "closed" his statement would be 1) consistent with the report of HCMC Paramedic Lupkes (see above) that the handcuffs he saw were closed and 2) inconsistent with the photo taken by the MPD Forensics Team 2.5 hours later.

**CONCLUSION ON THIS POINT:** While a verified, untampered photo of an item is usually more reliable than eye-witness testimony about it, the passage of time (2.5 hours) between what the witnesses saw and when the photo was taken, together with the access by numerous MPD officers to the site during this time period and their knowledge that handcuffing was immediately a live issue in this case raises reasonable questions that would have been addressed by a competent, thorough, and truly independent investigation.

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<sup>1</sup> The significance of this issue is that the Hennepin County Attorney has heavily relied on the BCA's Lab Analysis of the handcuffs taken into evidence at 3:30AM that found no DNA from Jamar Clark the inside or outside edges of the cuffs. As the County Attorney stated in his 3/30/15 Report:

*The inside and outside edges of the handcuffs were swabbed and examined for DNA. There was no blood on the inside or outside edges of the handcuffs.<sup>28</sup> There was "insufficient genetic information" to determine the source of any DNA.<sup>29</sup> The absence of Clark's DNA on the inside of the handcuffs is strong evidence that Clark was not handcuffed. County Attorney's Report, 3/30/16, page 10. See <http://www.hennepinattorney.org/~media/Attorney/NEWS/2016/jamar-clark-case/report-of-hennepin-county-attorney-regarding-death-of-jamar-clark-3-30-16.pdf?la=en>*