



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.¹

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 4th 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.

¹ 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.²⁸ There was "insufficient genetic information" to determine the source of any DNA.²⁹ 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>