

Settlement in Eagle Case Forces Systemic Reform within the Atlanta Police Department

A settlement was reached in *Geoffrey Calhoun, et al. v. Richard Pennington, et al.*, a federal civil rights lawsuit against the city of Atlanta and 35 individual Atlanta police officers brought by 26 individuals and two businesses who were the victims of a warrantless police raid on a bar called the Atlanta Eagle on September 10-11, 2009. The federal Court found that none of the Plaintiffs was personally suspected of any criminal activity and that each was unlawfully searched, detained, and/or arrested during the raid.

In addition to a sizeable monetary amount, the settlement requires systemic reforms in the Atlanta Police Department negotiated by Plaintiffs' Attorney Daniel J. Grossman along with lawyers from the Southern Center for Human Rights, Robins, Kaplan, Miller & Ciresi L.L.P and Lambda Legal Defense and Education Fund. These reforms include:

1. Unconstitutional Polices Revoked or Amended

The Atlanta Police department is required permanently to revoke or amend specific Standard Operating Procedures (SOPs) which violate the constitution, and other policies which are inconsistent with the following constitutional requirements:

- a) Police officers may not detain any individual without reasonable articulable suspicion, particularized to the person being detained, that the individual is involved in specific and identifiable criminal activity.
- b) Police officers may not take or demand identification, or require an individual to identify himself, without reasonable suspicion, based on objective criteria, that the individual is engaged or had engaged in criminal conduct.
- c) Police officers may not frisk an individual for weapons without a reasonable belief that the particular person being frisked is both armed and presently dangerous.
- d) A warrantless arrest is only valid when there is probable cause to arrest. Probable cause exists if, "at the moment the arrest was made, 'the facts and circumstances within [the officers'] knowledge and of which they had reasonably trustworthy information were sufficient to warrant a prudent man in believing' that [the suspect] had committed or was committing an offense."
- e) An arrest requiring probable cause is defined using an objective standard: whether the suspect is "subjected to restraints comparable to those associated with a formal arrest."
- f) In the absence of a lawful arrest, voluntary consent, or the exception commonly known as "the plain feel exception," a police officer may not search an individual for anything other than weapons without a search warrant or probable cause plus exigent circumstances.
- g) Police officers may not arrest an individual in his or her home without an arrest warrant or probable cause plus exigent circumstances.
- h) A police officer may not enter a suspect's home without a search warrant or voluntary consent unless probable cause and exigent circumstances exist, and any resulting search and seizure is prohibited under the Fourth Amendment.

2. APD Officers Must Identify Themselves

All uniformed Atlanta police officers must wear a clearly visible nametag and must identify themselves by name and badge number upon request.

3. Police Officers May Not Interfere with Photographs or Audio or Video Recording of Police Activity

Atlanta police officers are prohibited from interfering in any way with a citizen's right to make video, audio, or photographic recordings of police activity, as long as such recording does not physically interfere with the performance of an officer's duty.

4. & 5. Documentation of Warrantless Seizures and ID Checks

Atlanta police officers must fill out a written or electronic form **before the end of their shift** about any warrantless detention, frisk, search, or ID check inside any residence or commercial building or structure. This form must describe the specific crime(s) of which the individual was suspected; indicate the specific facts giving rise to reasonable articulable suspicion; indicate whether the individual was frisked for weapons, and if so, give the specific facts creating reasonable articulable suspicion that the individual was both armed AND dangerous; indicate whether the individual was searched for anything other than weapons, and if so, state the specific facts giving rise both to probable cause and exigent circumstances. These reports will be available for public inspection under the Georgia Open Records Act.

6. Mandatory Training for Atlanta Police Department

The City of Atlanta must conduct mandatory, in-person training for all sworn employees of the Atlanta Police Department, given by outside sources not employed by the APD, about: (A) the changes contained in the settlement; (B) the law regarding detentions, arrests, frisks, and searches generally; and (C) emphasizing the existing regulation, which prohibits the aiming of a weapon unless the discharge of that weapon would be justifiable. Recurring training on these topics will be given to each sworn officer **every two**

years. The training materials will be available for public inspection under the Georgia Open Records Act.

7. Timely Resolution of Citizen Complaints

The Atlanta Police Department must investigate and fully resolve all citizen complaints of police misconduct of any kind within 180 days of when the complaint is made.

8. Investigation of Officer Conduct

The Atlanta Police Department must conduct and conclude, within 180 days, a thorough and meaningful investigation, as specifically outlined by the settlement agreement, into the individual conduct of each officer involved in the planning and execution of the Eagle Raid and his or her truthfulness in the various proceedings that arose from the Raid.

To read the pleadings or view a white sheet about the reforms, please visit www.AtlantaEagleRaid.com or www.SCHR.org