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NAACP Responds to Chapel Hill Police Charles Brown Report, Which Found No Wrongdoing

Joe Schwartz · 29 SEP 2009, 9:12 PM · [COMMENT](#)

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The local NAACP chapter has issued a response to an [internal investigation](#) by the Chapel Hill Police Department, which found officers had acting appropriately in detaining [a black Chapel Hill barber](#) because he looked similar to a suspect.

A statement from the chapter called the investigation " a strong argument for the immediate establishment of a Citizen Review Board." It also disputes key findings. You can read the full statement below:

NORTH CAROLINA NATIONAL ASSOCIATION

FOR THE ADVANCEMENT OF COLORED PEOPLE

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For Immediate Release

September 29, 2009

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NAACP Response the Chapel Hill Police Department's Investigation of Itself

We have read the report of Chapel Hill Police Chief Brian Curran in response to the NAACP's complaint about the June 1, 2009 arrest, handcuffing, and holding Mr. Charles Brown, the owner of a Chapel Hill Barbershop located in the Bank of America Building on Franklin Street, for almost an hour about two blocks from his business. We will be discussing this report and our next step with the Town at our Regular NAACP meeting at 11:30 a.m. this Saturday at the Hargraves Public Meeting Room.

The Report is a strong argument for the immediate establishment of a Citizen Review Board. Such a Board, administered by a Town employee at Town Hall, where someone in Mr. Brown's situation would be respectfully greeted and



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lynn on "[Lavonia Allison elected to 7th term as chair of Durham Committee](#)": I just read the article in the Indy that appeared before the vote on Thurs and it prompted me to do an internet search to see if I could find the results of the election since the story was so compelling. I think, based on the reporting, that I will be a lot more careful

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anonymous man on "[Lavonia Allison elected to 7th term as chair of Durham Committee](#)": I attended the meeting of the Committee on the Affairs of Black People last night as an interested and concerned black citizen of Durham. I've read the stories predicting the demise of this once significant and powerful organization and wanted some first hand knowledge. As the meeting progressed my training, thoughts, beliefs and obligations as

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immediately interviewed after the questionable treatment Mr. Brown suffered, would create a more trust between citizens and police. It has been almost four months since Mr. Brown tried to file his complaint; three months since the complaint was filed, before there was a response. *(Mr. Brown came to the Police State on June 2, 2009, the day after he was seized and humiliated on Rosemary Street by Breadman's, and was treated with great disrespect when he tried to file a complaint, get a photo to see what "Mr. Fearrington" looked like. After requesting help from the NAACP, he was able to get a meeting with the Chief and the highest ranking Black officer, Jeff Clark on July 9th. He was also able to obtain an unsigned incident report which was obviously prepared after the officers in question knew that a complaint would be filed.)*

The Report presents another strong argument for a Citizen Review Board where someone outside of the Department hierarchy will conduct the initial investigation. The NAACP has a good opinion of Capt. Jeff Clark, but he is placed in a double-bind when he is forced to do a thorough investigation of the men he must lead and command.

We make the following comments in italics on some of the points made in the Report:

Capt Jeff Clark investigated the complaint. His investigation consisted of interviewing the five officers who were at the scene in front of Breadman's when Mr. Brown was arrested and held. The arresting officer, David Funk, told Capt. Clark that "he thought that he was stopping Cumun Fearrington." The Report stated Mr. Brown and Mr. Fearrington have "very similar facial features" and Off. Funk said he did not "arrest" Mr. Brown; he merely placed Mr. Brown in "investigative detention."

Off. Funk said, "You are under arrest, Mr. Fearrington." to Mr. Brown. Off. Funk handcuffed the Chapel Hill businessman, and held him for at least 50 minutes in public. Mr. Brown was not free to go. Mr. Brown would have been shot if he had tried to leave. This is not an "investigative detention."

The report cited a 1968 U.S. Supreme Court holding that an officer "May, in appropriate circumstances and in an appropriate manner, approach a person for the purposes of investigating possible criminal behavior, even though there is no probable cause to make an arrest."

Terry v. Ohio does not apply here, where the only probable cause ever given for the arrest of Mr. Brown was that he resembled Mr. Fearrington. When Mr. Brown immediately and very calmly said "I am not Mr. Fearrington," offered his ID, and said he owned a business two blocks away, the officer could have checked these statements in five minutes. Instead, from about 11:40 to 12:14, the arresting officers gathered several other officers, maintained the painful handcuffs behind Mr. Brown's back (they had searched him and knew he was unarmed), and did nothing to check on their mistaken identity. Finally, they called Orange County to check on Mr. Brown's ID. When it was apparent he was indeed Charles Brown and a terrible mistake had been made, the officers tried to cover-up their mistake by inquiring whether Mr. Brown had any outstanding warrants or any criminal record. Only after they were told that Mr. Brown was one of the few Black men in North Carolina who had not been caught up in Being While Black by any law enforcement agency, did they reluctantly un-cuff him and allow him to leave. No apologies, no nothing.

The report said the time of the "encounter with Mr. Brown began at 12:14 a.m. and ended at 12:30 a.m." based on the audio recording of an officer checking on Mr. Brown's identity with the Orange Central Communications center. The report claimed this differed from Mr. Brown's initial complaint that he was arrested and handcuffed for 38 minutes, and a second complaint that said it was "almost an hour."

The time of the "encounter" with Mr. Brown began at 11:35-11:40 p.m. when Off. Funk arrested Mr. Brown. The time of the audio recording began about 35 minutes later and continued for 16 more minutes. The time it took the officers

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Hailey on "[USDA inspection reports on "The Farm": dead hamsters, thirsty rabbits and lonely monkeys](#)": Thanks for this report Lisa - I hope that perhaps some public awareness will encourage UNC to make a better effort to properly care for the animals that they are responsible for.

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to decide to take the cuffs off, and tell him he could leave, was another 2-5 minutes. When Mr. Brown made his initial complaint, the recording was not available, and he believed he had been released around 12:15. When the recording was turned over to Mr. Brown, it was evident that the police did not release him until a few minutes after the recording ended, at 12:30 a.m. almost one hour exactly from when he was first arrested by Off. Funk.

The report said Mr. Brown's attorney acknowledged the similarities in appearance of a photo of Mr. Ferrington to Mr. Brown.

Mr. Brown's attorney, stressed the great physical differences between the two men, in the meeting on June 24th, and in the complaint: The Ferrington whose mug shot was shown is 5'10" tall, weighs 170, and is 24 years old, a Chapel Hill native well known in Northside and by members of the CHPD including Off. Funk. Mr. Brown is 5'8", weighs 150, and is 35 years old. pointed out in the complaint and in the meeting that Mr. Brown was ten years older, three

The report said none of the five officers admitted to Capt. Clark that they "taunted" or "mistreated" Mr. Brown. The report found that Off. Funk's calling an African American officer to the scene was a valid attempt to "defuse the situation."

When there were other officers on the scene, Mr. Brown objected to the obvious racism in the stop by saying: "If I were white, this would not be happening." Off. Funk said, "Would it make you feel better if I called a black officer?" "No." said Mr. Brown. Filing a complaint about racial profiling in arrests, handcuffing, and holding someone in place for almost an hour does not become "defused" by bringing in a Black officer. What will defuse this situation is to check on the ID of the wrongfully detained citizen!

No evidence was found in Capt. Clark's interviews with the five officers that indicated any of them "acted inappropriately towards Mr. Brown," and they all "should be exonerated in this matter," and "no other actions should be taken."

The question is not "inappropriate" actions—the question is whether the stop, search and seizure were constitutional and against best police practices?

The Chief, without commenting himself, indicated that Capt. Clark recommended that all patrol cars should have in-car camera systems that would provide protection for both officers and citizens; and that the Department should have a policy that requires a written report of any "investigative detention"

In-car cameras that automatically record all interactions between an officer and a citizen and a requirement that any investigative stops where cuffs are employed and a citizen is forcibly detained for more than an "investigative stop and frisk" are already best practices for most law enforcement agencies. It should be against regulations (and cause for discipline) for an officer to generate an after-a-complaint incident report after an "investigative stop," or to have an "equipment failure" or "forget to employ" the in-car camera when making such a stop.

Uncategorized Chapel Hill Police, Charles Brown, NAACP

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