

**In the Superior Court of Stephens County
Stephens County Grand Jury
July 2009 Term**

**GENERAL PRESENTMENT CONCERNING OFFICER INVOLVED
SHOOTING DEATH OF JONATHAN AYERS**

On December 15, 2009, the July 2009 Term Stephens County Grand Jury convened in special session to review the matter of the officer involved shooting death of Jonathan Ayers which occurred in Toccoa, Stephens County, Georgia on September 1, 2009.

The Grand Jury began consideration of the matter at 10:30 am with a review by Mountain Judicial Circuit Assistant District Attorney Rick Bridgeman of the laws concerning the functions and duties of a grand jury regarding consideration of criminal matters and the return of indictments in such cases as well as the duties and authority of the grand jury to conduct civil investigations. ADA Bridgeman reviewed the laws of Georgia which apply in any circumstance in which the life of a human being is taken, including the criminal statutes of malice murder, felony murder, voluntary and involuntary manslaughter as well as the offenses of aggravated assault, simple assault and reckless conduct. ADA Bridgeman reviewed the law concerning criminal proceedings against current or former peace officers and the procedure to be followed. ADA Bridgeman reviewed the laws concerning police encounters with citizens, including the reasonable articulable suspicion requirement for investigative detentions and the probable cause requirement for arrests. Finally, ADA Bridgeman reviewed the laws of Georgia concerning the use of deadly force, including the laws on justification, the use of force in defense of self or others, and the use of deadly force by a peace officer.

District Attorney Brian Rickman explained the process of grand jury review of the investigation and evidence in this case. DA Rickman also explained his decision to remain as the chief prosecuting officer in this matter after consideration of his legal and ethical obligations and consultation with the family members of Jonathan Ayers. DA Rickman reviewed with the grand

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jury its authority to compel the attendance of witnesses and to subpoena documents and records in the grand jury investigation of this matter.

The grand jury was asked to consider all of the evidence gathered by the Georgia Bureau of Investigation (GBI) during their investigation of this case and make several determinations. First, the grand jury was asked to determine whether the investigation conducted by the GBI was thorough, comprehensive, independent and fair and whether additional investigation was indicated.

If the grand jury determined that the investigation was thorough and complete, the grand jury was asked to determine whether the actions of the officers involved in the September 1, 2009 incident were legally justified based upon all of the evidence and Georgia law.

If the grand jury determined that the actions of one or more officers involved in the September 1, 2009 incident were not legally justified based upon the evidence and Georgia law, the grand jury was asked to then determine whether criminal charges should be prepared by the District Attorney, the particular charges that would be supported by the evidence and Georgia law and which officer or officers would be subject to further criminal proceedings. Finally, as to any further criminal proceedings, the grand jury was asked to consider whether public confidence in the judicial process would be better served by recusal of the Office of the Mountain Judicial Circuit District Attorney from further involvement in the proceedings.

Additionally, the grand jury was reminded of its authority to conduct a civil investigation and return any recommendations appropriate based upon a thorough and conscientious review of all of the facts and circumstances of this case.

The grand jury began hearing testimony on Tuesday, December 15, 2009 and concluded hearing testimony on Friday, December 18, 2009. The grand jury heard testimony from and questioned all of the following witnesses:

- Commander Kyle Bryant, Mountain Narcotics Criminal Investigation & Suppression Team (NCIS)
- Agent Chance Oxner, Mountain NCIS

- Special Agent in Charge Mike Ayers, Georgia Bureau of Investigation
- Special Agent Megan Miller, Georgia Bureau of Investigation
- Agent Billy Shane Harrison, Mountain NCIS
- Charles J. (Joe) Key, expert in police use of force

DA Rickman advised the grand jury that he had asked two outside District Attorneys to review the entire matter, Gwinnett County District Attorney Danny Porter and Mountain Circuit District Attorney Emeritus Mike Crawford. District Attorney Porter and District Attorney Emeritus Crawford each appeared before the grand jury to answer any questions concerning the legal issues involved in this case and their review of the investigation of this matter.

The grand jury was provided with the entire investigative file of the Georgia Bureau of Investigation which consisted of the following:

- A five (5) volume case file consisting of ninety two (92) exhibits including incident reports and investigative summaries, crime laboratory reports, search warrants, property receipts 911 records, medical records, personnel files and other documentary evidence.
- Twenty six (26) compact discs which contained recorded witness interviews, video evidence, photographs, 911 recordings and telephone records.
- Three (3) digital versatile discs (DVD) which contained video evidence and photographs.

We the grand jury had adequate time to completely review the GBI case file in its entirety.

After careful consideration of the evidence in this case, we the Grand Jury make the following findings:

- Concerning the investigation conducted by the Georgia Bureau of Investigation, we find that the investigation was very thorough, complete, unbiased and well-presented.
- Concerning the actions of the officers involved in the death of Jonathan Ayers on September 1, 2009, we find that the use of deadly force by Agent Billy Shane Harrison was legally justified based upon his objectively reasonable belief that such use of force was necessary to prevent death or great bodily harm to himself or others. Based upon

this finding, we the Grand Jury believe that the officers involved in this incident would be immune from criminal prosecution pursuant to Official Code of Georgia Annotated § 16-3-24.2.

Respectfully submitted this 18th day of December, 2009.

Kim H. Hudgins

Kimberly H. Hudgins, Foreperson

James M. Canady

James M. Canady

Connie Rice

Connie Rice

Gayle T. Davis

Gayle T. Davis

Carl D. Wood

Carl D. Wood

Charlotte C. Windus

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Timothy Pittman

Timothy Pittman

William J. Kiser, Jr.

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Laura A. Labadie

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Chad C. Payne

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Mavis E. Dooley

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Deborah E. Gholston

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Larry Allgood III

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Heather D. Broome

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Lisa M. Gettys

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