



ABC Investigation of the Incident of April 11, 2013

Two Virginia Alcoholic Beverage Control agents violated agency policy in an April 11 incident involving an encounter between ABC agents and three University of Virginia students, and several reforms and updates to ABC policies and procedures are necessary. This is ABC's conclusion following an independent investigation of the incident conducted by the Virginia State Police. Conducted at the request of ABC Chairman J. Neal Insley, the Virginia State Police investigation includes interviews with the participating agents, the students, two citizen witnesses, the Charlottesville Commonwealth's Attorney and Police Department personnel. The State Police investigation did not make recommendations for actions to be taken in response to its findings. This review makes those recommendations.

On the night of April 11, three young women left the Harris Teeter grocery store in Charlottesville's Barracks Road Shopping Center. A female plainclothes ABC agent, looking for underage alcohol possession, observed the women and suspected they were underage and in possession of beer. The agent and her partner approached the vehicle the women entered, displayed their badges and requested identification. Four additional agents nearby, some of whom had just arrived from working another assignment, responded and surrounded the vehicle. As the events unfolded, one agent landed on the hood of the vehicle, one drew a handgun, and a third struck a window with a flashlight. Fortunately, no one was seriously injured.

ABC deeply regrets the terribly unfortunate events of April 11. Three young women engaged in running errands, and several ABC special agents meeting prior to an undercover enforcement operation, converged at a grocery store parking lot. The decisions that were made and the actions that were taken during those ten minutes escalated into an incident with results that neither group intended nor desired.

ABC officials reserved comment while the State Police conducted its independent investigation to ensure an unbiased and full account of the incident. Agency leadership and law enforcement personnel have done everything in their power to learn lessons from this experience and modify policies, practices and training to prevent a similar incident from ever occurring again in the future. The publication of the actual reports and interviews comprising the State Police investigation has been prevented by the entry of an expungement order. Pursuant to the Code of Virginia and regulations of the Department of Criminal Justice Services, expunged records are required to be placed in a secure location in a sealed, separate file, unsealed only by order of the court. By statute, it is unlawful for any person having or acquiring access to an expunged court or police record to open or review it or to disclose to another person any information from it without an order from the court which ordered the record expunged. Violation of this provision is a Class 1 misdemeanor.

Internal reviews and the independent investigation reveal that two ABC agents violated agency policies during this incident. The violations stem from an agent drawing his weapon and another agent striking the passenger window with his flashlight.

In addition to policy violations, ABC identified two primary policy changes or training needs. First, ABC agents need to ensure that persons approached during an investigation can readily identify they are dealing with law enforcement officers. Second, ABC must ensure that an agent's response is proportional to the suspected violation or threat. With proper training, policy, and planning, agents should be able to recognize that a suspected underage possession of a twelve pack of beer would not justify a confrontation of the magnitude of the April 11 incident.

To address these concerns, ABC Enforcement has adopted a number of policy and procedure changes. Appropriate training to implement these policy modifications has already been scheduled. In addition, in early July, after revelation of this incident, a policy was immediately adopted by ABC to require the presence of a uniformed agent during any similar operation. Since that time, the following additional measures have been adopted:

1. In all future operations, agents shall attempt to encounter someone suspected of underage purchase of alcoholic beverages inside the location of purchase or as close as reasonably possible to the premises.
2. In the event an encounter takes place in the parking lot of the establishment, agents will make reasonable efforts to contact the individual(s) in well lighted areas. The agent in uniform, or a uniformed officer from a partner jurisdiction, will be the initial and primary contact.
3. Agents will make reasonable efforts to limit encounters with individuals once they are inside of a motor vehicle. If an encounter with an individual in a vehicle is deemed necessary, the agent assigned to work in uniform will be the initial and primary contact.
4. If the occupants of a vehicle are non-compliant with the lawful orders of the contact agent and attempt to leave the scene, and (i) the underlying charge is solely for the purchase or possession of alcoholic beverages by underage persons and, (ii) there is no immediate threat to the agent(s) or the community, no agent shall intentionally place themselves in harm's way to prevent the vehicle from leaving the scene or otherwise attempt to gain entry into the vehicle. In the event the suspect vehicle does leave the scene, agents will use other available investigative techniques to identify and safely apprehend the suspect involved.
5. If at any time it becomes known to an agent on scene that the occupants of a vehicle are unsure of the agent's identity or the occupants are attempting to, or have called 911, that agent, if not the designated contact agent, will immediately call for all agents to stand down and the uniformed contact agent will instruct the occupants not to leave the scene.
6. Operational plans will be required in more pre-planned operations .
7. Pre-operation briefings will be held which will include a review of all relevant policies which may be implicated in the operation.
8. A formal, documented debriefing is now required following every operation involving an operational plan.
9. When multiple agents will be working together as a group, one will be designated as the primary point of communication with the public.
10. Agents will be issued point-of-view cameras to be worn during operations.
11. All agents and supervisors attended in-service training this fall. This training emphasized the new policies and procedures and involved practical exercises on plainclothes operations, investigative detention, and other citizen encounters.
12. Agents received training in how to recognize and react to situations that might require de-escalation or disengagement.
13. Through training and other re-enforcement, the agency will promote a reasonable, common-sense philosophy of making sure the agents' response is proportional to the suspected offense.
14. ABC Enforcement will work with members of the Virginia Association of Chiefs of Police and the Virginia Sheriffs' Association to form an advisory committee to review policies and procedures and make best practices recommendations, including methods to strengthen

relationships and coordination between ABC Enforcement and local law enforcement agencies.

The specific conduct of any individual employee involved in this incident is outside the scope of this report. Any violations of policy have been or will be dealt with under the disciplinary procedures of the state personnel act and regulations. These regulations prohibit the agency from disclosing individual personnel information and disciplinary action.

ABC has thoroughly investigated the events from April 11 and undoubtedly learned from this incident. Agency leadership and enforcement personnel remain committed to preventing an incident such as this from happening again, and to ensuring the trust required for ABC to fulfill its public safety mission remains as strong tomorrow as it has over the last 79 years.