

July 17, 2015

To: Captain Gary B. Payne

From: Sergeant Craig P. White

Subject: Administrative Investigation/Review - Department of Alcohol Beverage Control
Arrest Incident
Martese Rashaad Johnson

At the request of the Office of the Governor, the Virginia State Police, Internal Affairs Section, conducted an administrative investigation/review of the arrest of Martese Rashaad Johnson on March 18, 2015, by Virginia Department of Alcoholic Beverage Control (ABC) Special Agents Jared B. Miller, Thomas S. Custer, and John S. Cielakie. The arrest occurred on the sidewalk in front of the Trinity Irish Pub, located at 1505 University Avenue, in the city of Charlottesville, Virginia.

During the course of the detention and arrest, Johnson's head struck the sidewalk resulting in a laceration on his forehead requiring ten stitches. Video of the incident taken by witnesses at the scene, showed ABC agents attempting to handcuff Johnson as he was lying face down on the sidewalk. Blood was flowing across Johnson's face as he appeared to be resisting the agents' attempts to handcuff him. He could be heard shouting "I go to UVA, you fucking racists." This video was soon widely circulated on social and news media. The purpose of this investigation/review is to determine the circumstances that led to Johnson's detention, arrest, and injury, for administrative purposes. I was assigned this investigation on March 19, 2015.

It should be noted, initially an administrative investigation/review was to be conducted into this matter, however, on March 19, 2015, the Honorable Warren D. Chapman, Commonwealth's Attorney for the city of Charlottesville, requested the Virginia State Police, Bureau of Criminal Investigation, Appomattox Field Office, conduct a criminal investigation to determine if there were any criminal acts committed by the ABC agents. The BCI case number is [REDACTED]. The case agent is Senior Special Agent [REDACTED] (BCI GIS Appomattox).

During the course of the investigation, over 50 people were contacted for interviews. The following is a summary of the criminal investigation conducted by [REDACTED]:

Johnson, age 20, attempted to gain entry into Trinity Irish Pub at approximately 12:40 a.m. on March 18, 2015. Trinity Irish Pub is one of several ABC-licensed establishments located along University Avenue, in Charlottesville, in an area known as "The Corner." Trinity employs several bouncers to screen potential patrons; and, after 10 p.m., only admits persons aged 21 or over. Owner/manager [REDACTED] and head bouncer [REDACTED] were at the entrance where a large crowd was seeking admission.

[REDACTED] advised he did not normally do the "carding" but was doing so because of the presence of the ABC officers, and due to a meeting with ABC officials the week before. The meeting was requested by Trinity owners in order to be on the "same page" with ABC.

Trinity received eight written warnings in the last five years for administrative offenses. Special Agent in Charge (SAC) Joseph L. Cannon, ABC, described Trinity's license history as "bad." Other Trinity bouncers present outside included [REDACTED], [REDACTED], [REDACTED], and [REDACTED].

Johnson told investigators he came to Trinity to see his friend [REDACTED]. The only person he was directly with was [REDACTED]. He went to the front of the line to say "hi" to [REDACTED]. [REDACTED], whom Johnson did not know, asked to see his identification (See Attachment No. 1), and requested he recite his zip code; a method [REDACTED] advised he uses to ferret out fake IDs. Johnson presented an Illinois ID card, and gave an incorrect zip code. He said the mistake was due to a move and change of address. The zip code on the ID was 60653 and he recited 60615. According to an Accurant report and Johnson, the address on the ID was likely in use until around the middle or latter part of 2012. [REDACTED] rejected Johnson for admission to Trinity without examining the age or other details of the ID. [REDACTED] held the ID out in his right hand extended towards the exit. Johnson grabbed the ID and exited. Johnson continued to engage [REDACTED] trying to convince him the ID was real, and he just messed up the zip code. At one point, Johnson had his phone in his hand referencing some proof of being from Chicago. The two spoke briefly about both being from Chicago, but Johnson was not admitted. [REDACTED] advised he did not know Johnson, but [REDACTED] did. He did not believe Johnson to be intoxicated, and in a media release described Johnson as cordial and respectful. Johnson described the conversation as simple and cordial.

Johnson advised he was grabbed by the arm from beside, or behind, by an unknown person before anything was said to him. His natural reaction was to disregard that person and attempt to walk away. Johnson said initially the officers did not identify themselves, but he assumed they were some authority figure. His stated priority was to prove to them he had not provided false identification, and did not deserve any sort of mistreatment. He felt he was being mistreated just from the point of someone aggressively grabbing his arm from behind. Feeling victimized and mistreated, he felt it was his duty to prove that he had not broken any sort of law.

After being pulled over to two other officers, Johnson said he saw the officer's badges and realized they were ABC officers. They seemed to be focused on the notion he had presented a fake ID at the door. He could only remember the general conversations with the officers concerning a fake ID; he could not remember the specific words of the officers. The conversation was very brief; less than 30 seconds. One of the officers had one of his arms, he believed. He recalled attempting to get the ID from his wallet to show them the ID when he was "slammed" to the ground.

Before realizing he was even bleeding, Johnson described being "shocked" this could be happening to him. He remembered saying, "I go to UVA," and swearing and, as seen on the video, calling the officers, "Fucking racists." He explained he had no prior interaction with any of these officers, and would be surprised if he ever had seen them before in his life. Using the phrase, "You fucking racists" was based on his time at the University encountering peers who were in situations, and none of them were "physically abused." Johnson said the phrase derived from him being African-American, and being one of the few, if not the only one, to ever be physically abused by an ABC officer to that extent.

██████████ and assisting agents conducted interviews with Trinity employees working on March 18, 2015 that witnessed the incident.

All other Trinity bouncers gave slightly differing accounts of these events. ██████████ reported seeing Johnson rejected then pull out his cell phone insisting to ██████████ the ID was valid; saying, "I can prove it. I can prove it." ABC officers approached Johnson, and said they wanted to verify his ID. He saw them walk toward the light post near the road, then observed one of the officers "snatch" Johnson's hand to try and restrain him. A second officer came, and they all three ended up on the ground in an "off balance fumble" after shifting to the side towards the Baskin Robins, and at one point stumbling towards ██████████. He did not hear any words spoken by

the officers. He described Johnson's demeanor as "debating" and non-threatening. He heard Johnson cursing during the event, and citing a racial bias after he hit the ground. He did not believe anyone intentionally hurt Johnson.

█████ saw █████ reject Johnson, and hold the ID out in his right hand. Johnson grabbed the ID, and walked toward the fence where the ABC officers approached. ABC asked for the ID, and Johnson refused; saying, "No way." He saw Johnson raise his cell phone, and the officer, in his opinion, reach for the phone at which point Johnson jerked away. The officer grabbed an arm, and Johnson pulled back. It appeared the officer was putting Johnson's arm behind his back, and Johnson was pulling away. It was during this struggle they fell to the ground, and he saw blood about 15 seconds later. █████ also said he did not feel the officers intended to cause an injury. He did not hear the officer's words to Johnson. █████ also commented on the screening policy at Trinity. He said the business checks ID's and there was no way a 20 year old would get into the pub.

█████ reported being outside with other bouncers. █████ checked Johnson, and he got his zip wrong. Johnson got on his phone to prove he had moved; saying, "Look, I can prove it on my phone." He described Johnson as persistent in trying to get in the bar, and kept talking about his address. As Johnson got his ID, and started to leave, an ABC officer approached him and said, "Come talk to me about the ID." Johnson said something like, "No, I'm good." The officer again said, "Come talk to us about that ID." Johnson kept walking away, and the officer grabbed his forearm. The second officer took Johnson's other arm. As they tried to put his arms behind his back, he would roll out of it. They told him at least three times to "get down." █████ told Johnson to "chill" and the crowd was also saying, "Get down." He described their initial touch as "timid" but later got "stronger" with him. The officers had his hands behind his back so there was nothing to stop Johnson's head from hitting the ground.

█████ was also outside and saw the ABC officers standing near the street where he saw University police stand before. People under 21 are not admitted inside the pub, so employees were checking ID's. He said Johnson initially gave his ID to █████. Johnson got his zip code wrong, and █████ said, "I can't take this." █████ made the same statement and █████ told Johnson, "█████ owns this place, listen to him." Johnson started to leave, cursing and using the word "fuck." His voice was "projected" and "loud" and █████ could hear him from ten feet away. █████ turned back towards the crowd awaiting entry to the pub and heard yelling. He turned towards the sound, and saw Johnson pinned to

the ground by the three officers. He thought [REDACTED] saw Johnson go to the ground; [REDACTED] and Johnson are friends.

[REDACTED] was contacted at the pub. He said his parents advised against talking to police without an attorney. [REDACTED] further stated he did not want to talk to the police because of his relationship with Johnson.

During the course of the investigation, [REDACTED] obtained a copy of the ABC Bureau of Law Enforcement Incident Report. (See Attachment No. 2) Report Number [REDACTED] documented the information provided by all three ABC officers concerning this event. (Please note, the three ABC Special Agents were not interviewed during the criminal investigation.)

Special Agent Jared Miller reported observing [REDACTED] look at a male's ID (later identified as Martese Johnson) then give the ID back to the male, sending him away. As Johnson turned to walk away, Miller approached and identified himself as a police officer and requested to see his ID. He noted Johnson had "bloodshot/glassy eyes" at that point. Johnson said something Miller did not understand, and began walking away. Miller placed his right hand on Johnson's left elbow, told him to stop and show his ID. Johnson "shrugged" away from Miller, and continued to walk away. Miller re-grabbed the arm, and repeated his instruction for Johnson to stop and show the ID. This time Johnson pulled away, quickened his pace, and his outer garment began to slip off. Miller reported that he believed Johnson may be attempting to flee. Miller instructed Johnson to "stop resisting" and put his hands behind his back. Special Agent Thomas Custer approached to assist. Miller reported he began to lose his grip during Johnson's active resistance, and the struggle caused all three to fall to the ground before they "could safely escort Johnson to the ground." Johnson ignored the instructions and continued to pull away from officers. Johnson was eventually placed in handcuffs, and leg restraints were applied when Johnson tried to kick his legs from Miller's control. Johnson began screaming things at the officers, and Miller noted a "strong odor of an alcoholic beverage coming from his (Johnson's) person" during this close contact. [REDACTED]

Special Agent Thomas Custer reported seeing a Trinity employee ([REDACTED]) receive an ID from a young black male (Johnson), point to the ID, then place it in his extended right hand toward the exit. Miller approached to speak to Johnson who stepped away from Miller. Miller reached out toward Johnson in another attempt to speak to him, and ask for the ID. Johnson withdrew his arm and turned his body away from Miller. Custer

approached Johnson at this point, and advised him, "The officer behind you is trying to talk to you." He also noted that Johnson's eyes "appeared glassy." Johnson turned away from Custer; at which point, Custer grasped Johnson's left arm to aid Miller's attempt to stop Johnson and conduct his investigation. Custer told him, "Stop, police," as he grasped the left wrist of Johnson. Johnson attempted to pull away, and Custer's grip slipped. This caused both Johnson and Custer to fall to the ground. Custer landed on his right elbow and Johnson's head struck the sidewalk. Custer instructed him to stop resisting as Johnson continued to pull away and kick, trying to break Custer's grip. Custer was able to place Johnson's left wrist in handcuffs. Johnson was attempting to turn over and began shouting racial accusations. Custer repeated instructions to stop resisting, and told Johnson there was an ambulance on the way to check him out. Special Agent John Cielakie placed another set of handcuffs on Johnson's right wrist, and they connected the two pairs of handcuffs. Johnson continued to "try and grab" at officers, and move away from them on the ground.

Custer asked for Johnson's name and was told, 'Martese' but that he goes by 'Tese.' Custer spoke to him by name which seemed to calm him down. He explained they were going to get him off the ground in order to tend to his injury. Once standing, Johnson resumed shouting racial comments towards the first aid workers because they were white. Johnson addressed one female first aid worker, [REDACTED], who is of Indian descent saying, "Look what they did to me, you understand, we're both minority." Custer also went to the hospital due to the pain in his right elbow. He was examined, x-rayed, and released.

Special Agent John Cielakie reported having a brief conversation with Trinity owner, [REDACTED] just before this incident. Cielakie told [REDACTED] the officers were not "looking" for violations but were concerned about the crowd that was out front. [REDACTED] thanked the officers, and said it made his life easier because they were there. Subsequently, he saw [REDACTED] examine the ID of a "youthful appearing black male." [REDACTED] shook his head in a "no" fashion, and extend the ID towards the exit. The male (Johnson) grabbed the ID from [REDACTED], and walked towards the exit. Miller began to walk towards Johnson, and Cielakie asked if he was going to check the ID; Miller said he was. Cielakie turned to converse with Fire Marshal [REDACTED]. When he turned back, he saw Johnson pulling away from both Miller and Custer. He observed Custer "trip," and all three men fell to the ground. Johnson's head struck the brick sidewalk. Cielakie saw blood from a cut to Johnson's head. He immediately called for assistance and a rescue squad. He heard Custer tell Johnson to stop resisting as he attempted to place him in handcuffs. Miller and Custer had one handcuff

on, but could not get the left arm controlled. Cielakie placed another handcuff on the right arm, and they connected the two pairs of handcuffs. Johnson continued his resistance, and Cielakie applied a set of leg restraints. Johnson continued to shout "racial" comments towards the officers and rescue squad personnel. Once at the hospital, Johnson initially refused treatment because he did not have the money. Cielakie spoke to Johnson advising he needed to get his injury treated, and assured him the officers cared that he received treatment. Johnson ultimately consented to be treated.

██████████ arranged for interviews of the fire marshal at the scene, as well as, rescue personnel and Charlottesville police officers that responded.

Fire Marshal ██████████ advised he was present on 'The Corner' to watch for businesses exceeding capacity restrictions that could lead to unsafe environments. He was introduced to the ABC officers earlier in the evening by a Charlottesville police officer. Cielakie gave him a business card, and they discussed locations experiencing large crowds. Around midnight, ██████████ entered Trinity to advise management about an overcrowded balcony. At that time, ██████████ told the manager it was his opinion Trinity was at capacity, and they would have to proceed with a "one for one" admission practice until the crowd thinned. ██████████ told a black male bouncer (██████████) as he exited, and he acknowledged. ██████████ described the crowd, forming to get inside Trinity, as a "mob" that was, at times, essentially blocking the entrance. ██████████ was standing with the ABC officers when the owner/manager (██████████) came over. ██████████ was introduced by the ABC officers. ██████████ basically thanked them for coming out to help with the crowds. ██████████ was watching the balcony when his eye was drawn to a commotion. One of the ABC officers was attempting to control a male subject (Johnson), by holding an arm. A second officer approached and took hold of the other arm. They went up the sidewalk 15 to 20 feet before they began to try and get him to the ground. Johnson was not cooperative, and they were having trouble controlling him. They ended up on the ground, and the male was eventually handcuffed. Johnson was very agitated and vocal. When the EMS workers approached, Johnson said, "You're all white; you're all racists." ██████████ did not have close enough interaction to make further observations.

Charlottesville Fire Department Engine 7 responded with three personnel on board. One firefighter, ██████████, reported he was within three feet of Johnson when he was sitting on the back of the police van. ██████████

Neither of the other two firefighters reported being close enough to make observations.

[REDACTED]

[REDACTED]

Several Charlottesville police officers (CPO) responded to the scene, mostly for crowd control and containment. Officer [REDACTED] arrived in the transport van, and witnessed the ABC officers telling Johnson to stop resisting. He encountered a black female, later identified as [REDACTED], loudly objecting to what was happening, and crowding in on the officers. [REDACTED] used an extended hand to keep her from moving forward. [REDACTED] said, "Don't fucking touch me!" which led to her being briefly detained and handcuffed. [REDACTED] had her sit in a chair in front of one of the businesses. A male identifying himself as [REDACTED], later identified as [REDACTED], told [REDACTED] he would tend to [REDACTED]. [REDACTED] released [REDACTED], and turned his attention towards Johnson who was now seated on the rear bumper of the transport van. Johnson was refusing treatment or conversation with the white officers. Johnson said, "I'm not talking to any

fucking white officers." He was refusing to be cleaned up, and said it was part of a "statement of what he was going through." [REDACTED] stepped up, and tried to calm the situation so Johnson would receive treatment. Both [REDACTED] and [REDACTED] had inquired of Johnson's condition, but could not be located until [REDACTED] noticed [REDACTED] being kept away from the ambulance by another CPO officer. [REDACTED] informed both subjects where Johnson was being taken. [REDACTED] was later called to the emergency room to transport Johnson to the Albemarle Charlottesville Regional Jail (ACRJ).

[REDACTED]

Cannon, ABC supervisor, arrived at the hospital to initiate an administrative Use of Force/Injury to a Prisoner investigation. Cannon spoke briefly to Johnson who told him he had gone to Trinity to see a friend. Johnson said an ABC officer in plain clothes asked to see his ID, and prevented him from going into Trinity before the uniformed ABC officers approached. Cannon believes Johnson mistook [REDACTED] to be a plain clothes officer. No one from ABC was in plain clothes on 'The Corner.' Johnson told Cannon he drank two beers in his room earlier in the evening.

Johnson was taken before the magistrate, warrants were issued and a Commitment Order was issued at 4:21 a.m. Johnson was received at the ACRJ at approximately 4:32 a.m. after his appearance before the magistrate. During the inmate medical screening, conducted by ACRJ Officer [REDACTED], there were multiple entries with affirmative answers to questions regarding whether or not the inmate (Johnson) appeared to be under the influence of alcohol. Somewhere between 4:30 a.m. and 5:00 a.m., the magistrate requested Johnson be administered a PBT (preliminary breath test). [REDACTED] said the result was .002%. [REDACTED] advised he only used the device approximately six times while employed at ACRJ since 2013. The PBT was last calibrated on October 17, 2013. When checked on April 9, 2015, the reading on a known .10% dry gas sample resulted in a reading of .084%. It was noted the device was not stored with the "SET" button depressed as suggested by the manufacturer. When the "READ" button was depressed, the displayed

reading was .002%, before resetting the device to collect the dry gas calibration sample.

██████████ and assisting agents interviewed several witnesses who were either acquainted with Johnson or were accompanying him on the night of the incident. A handful of witnesses outside of, or near Trinity that night, called in on a tip line, or otherwise made themselves known to investigators during the early stages of the investigation. Others were identified from video of the incident, developed from interviews, or gave interviews to the press indicating they were in Johnson's company that evening but did not immediately come forward. Contact was made either in person, by phone, voice mail and or email with 24 witnesses not counting first responders, Trinity employees, or jail personnel. Several declined to speak to investigators for varying reasons. Through these interviews, Johnson's activities prior to arriving at Trinity were documented.

Johnson and his two roommates, ██████████ and a male, known by investigators only by the name '██████████' went to an apartment on West Main Street in Charlottesville known as "The Flats." The apartment was that of ██████████, ██████████, and ██████████. ██████████ was having third and fourth year student friends over for drinks. Other persons present at this apartment included ██████████, ██████████, and ██████████. Johnson arrived with a "loud" entrance according to ██████████ and was observed by several as having brought his own bottle containing a brown liquor. ██████████ said it was definitely a Jack Daniels bottle. ██████████ said she observed Johnson drink the small portion (approximately ¾ inch depth) that remained in the bottle of a fifth of whiskey. ██████████ reported seeing Johnson finish off what was left in the bottle that he brought.

After some time, the group went down to another apartment in "The Flats" belonging to ██████████, ██████████, ██████████ and ██████████. No alcohol was being served in this apartment so the group left very shortly after arriving. The makeup of the group would vary during the evening as small groups split off and went different directions to different destinations. Their accounts of exactly who was together at these locations varied. Many went to 'The Lawn' where beer was being served before heading off to various establishments on 'The Corner.'

Johnson told investigators the only person he was directly with; approaching "this event" was ██████████. ██████████ advised after leaving the second apartment, they went to 'The Lawn' as a group where beer was being served from Room ██████████. He does not know whether or not Johnson

drank there or not. [REDACTED] remembered Johnson handing her a beer, but did not remember seeing Johnson drink anything. They stayed in that area about 30 minutes. Johnson and others in the group ended up at Crozet where both [REDACTED] and [REDACTED] remembered Johnson ordered a mixed drink. [REDACTED] reported Johnson ordered three rum and cokes. Johnson drank one himself, gave [REDACTED] one, and could not remember who got the third. [REDACTED] said Crozet "cards" at the door, but does not know how Johnson got in unless it was because there was a fairly large group of over-21 students, and they just didn't check him closely.

They remained at Crozet approximately 45 minutes to an hour before heading towards Trinity. [REDACTED] reported that Johnson knows all the bouncers at Trinity. He added that all the bouncers at the bars are in the habit of admitting their underage friends. Johnson's good friend, [REDACTED], works there. Johnson and [REDACTED] are in the same fraternity. They usually do not have to wait in line, but there was a crowd. Johnson got up to [REDACTED] to say hello, and the other bouncer ([REDACTED]) asked to see his ID. There was a brief conversation and Johnson misstated his zip code. According to [REDACTED], the bouncer said, "Get out of here." Johnson was walking backwards still trying to explain the wrong zip code, but the bouncer was pretty much ignoring him. Johnson was saying things like, "Come on man," and at some point said, "This is bullshit."

[REDACTED] said uniformed ABC officers approached, and asked something like, "What's going on with this ID?" Johnson shrugged them off and attempted to walk away. The officer got a little more aggressive, and a second officer also grabbed onto Johnson's arm. That's when they "slammed" him to the ground. [REDACTED] did not feel the "shrugging" off warranted Johnson being taken down like that. Despite the racial comments made by Johnson, [REDACTED] did not believe the officers approached because of race or malice. He did believe Johnson's treatment afterwards was affected by his race. [REDACTED] admitted Johnson was probably a "bit intoxicated." [REDACTED] used [REDACTED]'s phone to video some of the event.

[REDACTED] referred to Johnson as a "little drunk; drunk enough that [REDACTED] and I told him he shouldn't be driving." She also saw him drinking whiskey at her apartment earlier. She admitted to owning a fake ID, but often gets into bars without showing ID. [REDACTED] has let her into Trinity and she knows he lets Johnson in, as well. She told investigators it is her belief that many friends in their group have had problems with alcohol. She said anyone in their group that night that says Johnson was not drunk is not telling the truth. She confronted [REDACTED] about his interview on CNN's Anderson Cooper, calling it untruthful. She felt like everyone was

using this event as a platform for the "black" thing. [REDACTED] described her own condition that night as intoxicated, and was embarrassed about her conduct. She initially heard [REDACTED] shouting, and came to calm him down; Johnson was already on the ground. She got caught up in the moment, and began to get loud herself.

[REDACTED] reported seeing the dialog between Johnson and the bouncer, but not hearing it. The bouncer handed the ID to another bouncer who was standing at the exit. Johnson continued in conversation with the bouncer when the ABC officer approached. The second officer came from behind and started "wrestling" Johnson who was saying, "Get off me." The officers were trying to put Johnson on the ground, and he was trying to stand back up. Johnson was forced to the ground where his head hit the sidewalk. It was [REDACTED]'s opinion, Johnson was "not resisting to the point that had to happen." By the time he got his phone out to record, Johnson was already on the ground. [REDACTED] knows [REDACTED], and has been admitted by [REDACTED] into the pub in the past before he was 21. He used a fake ID, and does not know if [REDACTED] was aware he was under 21.

[REDACTED] was in line to get into Trinity; a line she described as a "mob." She saw someone being pulled toward the sidewalk. At once they were standing, and the next moment they were on the ground. She realized it was Johnson and told [REDACTED] on the phone she was going home and did not want to be around trouble. [REDACTED] did not leave, but did take some pictures of Johnson sitting on the rear of a vehicle wearing shackles. She met Johnson for the first time that evening, and never actually saw him drinking. She assumed he was drinking because everyone was drinking.

[REDACTED] did not see Johnson drink anything earlier in the evening at the apartments. She and others split off before meeting back up in the line to enter Trinity. She was just behind [REDACTED] and Johnson, and saw Johnson give his ID to the bouncer. He gave a wrong zip code, and the bouncer said he could not accept his ID. Johnson was explaining he had moved, and gave a newer zip code. He kept saying, "Sorry, I moved, I moved." Johnson stepped aside and she assumed he was leaving. She described him as "upset" and "flustered" but not mad. She entered the pub, and called [REDACTED] on the phone to tell her to come in. [REDACTED] told her someone was on the ground outside. [REDACTED] came out and saw Johnson yelling, and people videotaping and yelling. [REDACTED] admitted using a fake ID to get into bars before turning 21, and occasionally a bouncer friend would let her into bars without checking the ID.

██████████ advised she did not see any of the altercation between Johnson and the officers outside of Trinity. She and her friends had been drinking throughout the night. She did not believe anyone would be considered "sloppy drunk" to include Johnson. She told him earlier that night that he should not be drinking and driving, and knew he was under 21. She did not ride in a car that night with Johnson. She has a DUI on her record, and would not put herself in a car with someone who was underage and drinking. She and ██████████ did ride with ██████████ at some point.

██████████ was in line at Trinity with ██████████ when someone said "our boy" was getting arrested. When they looked, Johnson was already on the ground; he neither saw nor heard any of the preceding interaction between the officers and Johnson. ██████████ reported hearing one of the officers tell Johnson to just relax. ██████████ said he told Johnson, "Do your best to relax." Johnson said, "██████████, help me please, help me please; I have no idea how it got to this point, help me."

██████████ reported meeting back up with ██████████ and Johnson inside Crozet, then leaving to walk towards Trinity. Johnson and ██████████ moved ahead in the line, and he got caught talking to other friends, and fell behind. ██████████ heard a quarrel, looked and saw Johnson on the ground. He did not see the interaction of Johnson with the bouncers or officers, but knew he was under 21.

██████████ declined to be interviewed. He inquired if investigators were seeking information on "Martese's behalf, or their (the officers) behalf." He said he did not want to talk to investigators. ██████████ is employed at the ABC store on ██████████ in Charlottesville.

Contact was attempted by phone with ██████████ and '██████████' at phone numbers provided by ██████████. Voice mail messages were left; no return calls were received. An e-mail message was sent to an e-mail address obtained through the UVA website. No message was received in return. The actual identity of '██████████' was not developed through any other interviews conducted by investigators; therefore, no e-mail address could be determined to attempt contact by that method.

██████████ and assisting agents also interviewed witnesses near Trinity on the night of the incident that were not acquainted with Johnson, and had not spent time with him earlier in the night.

██████████ reported the area around Trinity as "very crowded" with a lot of pushing and shoving in the crowd. The bouncers seemed to be more

aggressive and 'on edge' than normal. Everything happened quickly. She saw three people circle Johnson, and pull him out as he was being arrested. A crowd formed, and the view was obscured. She did not hear any of the conversation between Johnson and the bouncers, or officers. She knew Johnson from a prior group conversation on 'The Lawn,' but did not actually recognize him as the person being arrested the night of the incident.

██████████ reported being in front of College Inn facing towards Trinity using an app on her phone. She heard a commotion, and someone yelling, "You fucking racist." A black male was coming back from the bar area towards the line, and two officers were trying to detain him and handcuff him. The male was continuing to resist and was getting further away from the entrance to the bar. The officers finally grabbed him, and they all fell to the ground. The male's head struck the ground, and blood was running down his face. People started to gather and ██████████ left the area.

██████████ reported seeing Johnson already on the ground when she walked by the area of Trinity. He did not appear to be fighting the officers, merely reacting to being restrained. The officers were not beating Johnson; they just appeared to be trying to control him. She did not hear anything the officers were saying.

██████████ reported walking towards Trinity and seeing Johnson already on the ground. The gathering crowd seemed to be upset that Johnson was bleeding and no one seemed to be rendering aid.

██████████ reported seeing two officers approaching the Trinity line to speak to Johnson. ██████████ presumed Johnson did not want to talk to them because he had a fake ID in his hand. He wanted to get away from them. Things escalated quickly. ██████████ did not see who touched who first. He saw Johnson pull his hands away from the officers as they reached towards him. Johnson spun away towards the street as the officers were trying to stop him. He was yelling at the officers saying they were "fucking racists." He appeared to be drunk, and was not making smart decisions as they were telling him to, "Stop resisting, stop fighting." The officers got him on the ground; soon after, you could see blood running down his face. The officers were doing a "poor job" of handcuffing Johnson. Johnson continued yelling, "You fucking racists. Get the fuck off me." ██████████ left after Johnson was taken to the police van.

██████████ reported seeing Johnson bypass the line, and go straight to the bouncer to show his ID. The officers came in to speak to

him. Johnson got more aggressive and angry; he was talking louder and gesturing. As an officer moved to take hold of one arm, Johnson "freaked out," and moved away. They all ended up on the ground where Johnson's head struck the ground. It looked like they fell to the ground because officers were trying to handcuff Johnson, and he resisted. [REDACTED] said the cops did their job. The cut made it seem brutal; but he felt the injury was an accident and not excessive force.

[REDACTED] reported hearing a commotion as he walked by Trinity, and saw two ABC officers talking to Johnson who was raising his voice at them. Johnson had, what looked like, his ID card in his hand, and both hands were raised up as officers attempted to secure his hands. Johnson pulled away twice from the officer's attempts, continued to raise his voice, and say they were stopping him because of his race. [REDACTED] believed the officers "purposefully, but not intentionally violently, took him to the ground." Johnson's head was cut as it hit the ground. Johnson resisted the officer's attempts to put him in handcuffs, keeping one arm up and raising his middle finger. The officers instructed Johnson to stop fighting. Johnson continued to shout that the officers were, "Fucking racist, racist as shit." [REDACTED] had previously witnessed Johnson play the "race card" when he was refused entry into a private party, and became disrespectful. He believed his belligerence towards the officers was because he was drunk.

[REDACTED] reported seeing Johnson in Crozet earlier. He knew Johnson from a prior occasion when his fraternity refused to let Johnson into a party because he seemed too drunk and very aggressive. Johnson accused them of being racist. [REDACTED] was in the area of Trinity, and saw Johnson trying to cut into the line; he went straight to the bouncer. The bouncer did not let him inside, and two officers approached. One officer began talking to Johnson. Johnson was getting heated, and the crowd was yelling, "Tese, Tese," trying to calm him down. [REDACTED] reported seeing Johnson "swat" the officer's hand away and turn. That is when the officers grabbed his hands to put them behind his back. They took him to the ground. There was a struggle on the ground. It seemed the officers were having trouble handcuffing him. He was squirming, and yelling obscenities. The officers were telling Johnson to cooperate, and stop moving his hands. Johnson kept yelling, "Fuck you, you racist bastards. I'm a UVA student, how can you do this to me?"

During the course of the investigation, [REDACTED] obtained training records for each of the agents involved in the arrest of Johnson. (See Attachment No. 3)

All three officers completed basic law enforcement training sessions in accordance with standards set by the Department of Criminal Justice Services (DCJS) for sworn law enforcement officers in Virginia. Their in-service training mandates, also regulated by DCJS, were up to date. Miller and Custer were employed with ABC since April 10, 2013. Cielakie was employed with ABC since August 10, 2012. Miller and Custer had no internal files related to previous Response to Active Resistance. Cielakie has one, but that is under court seal.

All three officers attended a three day ABC in-service session, in the Fall of 2013, entitled, "Citizen Encounters, De-escalation/Disengagement, Use of Force Scenario Training." This session was a combination of classroom instruction, group discussion and live-scenario, practical exercises dealing with citizen contact, communication through professionalism, rapport building, and response to threats/officer safety/disengagement.

Forty-one ABC agents across the Commonwealth worked in, or around, Saint Patrick's Day events on March 12, 14 and 17, 2015. One of the agency's primary techniques utilized by agents to ensure public safety and compliance by licensees, and to actively work complaints and investigations, is to conduct observations in and around licensed establishments, or special events. In 2014, ABC agents conducted 2,807 total observations, 1,950 of which were very similar to the activities of the three agents on 'The Corner.' They were not exclusively addressing any particular establishment. Of the 1,950 observation operations, 175 were conducted in, and around, college campuses.

Thirteen total charges were made by ABC agents during the three days of St. Patrick's Day events in 2015. Six were for Public Intoxication, four were for Possession of Fake Identification, and one each for Underage Possession of Alcohol, Disorderly Conduct, and Obstruction of Justice. The Roanoke Region for ABC, also worked in, and around, the college campuses of Radford University and Virginia Tech. Those charges were made against 11 individuals; six males and five females. The racial breakdown of the individuals is as follows: four Caucasian, three African-American, two Asian, and one listed as Middle Eastern. Seven were taken into custody, and four were released on a summons. Based on a review of the incident reports, only Johnson offered active resistance during citizen contact with ABC agents. [REDACTED] obtained a letter from Shawn P. Walker, Director of ABC law enforcement, documenting this information. (See Attachment No. 4)

As a part of his investigation, [REDACTED] researched ABC General Orders that applied to the events surrounding Johnson's arrest and the aftermath.

ABC General Order 216, "Operational Plans/Special Event Operations," requires the completion of operational plans in certain settings or circumstances. (See Attachment No. 5) The three agents conducting observations in the area of 'The Corner' in Charlottesville, March 17-18, 2015, were not involved in an activity that would automatically trigger the requirement; therefore, no written operational plan was prepared. Special events or specific observation of any one establishment may have required a written plan. The officers were in uniform, and displaying badges. They were not operating with undercover officers, or in a group of five or more officers. Cielakie reported he made contact with the Emergency Communications Center (ECC) for Charlottesville and the Virginia State Police in Appomattox to advise they would be working in the area. Each communication center was provided with a description of the silver, unmarked Chevrolet Impala ABC police vehicles they would be driving. The centers were advised of the areas the agents would be working and provided a contact number and the unit or badge numbers of the agents working. Agents were equipped with a Charlottesville radio which would put them in immediate contact with the ECC.

ABC General Order 200, "Response to Active Resistance," provides agents with guidelines on the use of lethal and less lethal force to protect life and provide for the public's safety. (See Attachment No. 6) It also provides definitions and a structured response of post-event responsibilities of agents and the agency. One such definition is in Section III, D: "Reasonable Belief - When facts or circumstances the agent knows, or should know, are such as to cause a reasonable or prudent agent to act or think in a similar way under similar circumstances." Another, in Section III, G: "Response to Active Resistance Continuum - A training model/philosophy that supports the progressive and reasonable escalation and de-escalation of agent-applied response to the actions and level of resistance offered by a subject. The level of response is based upon the severity of the crime, immediate threat, active resistance to arrest, or attempting to evade arrest by flight. Such response may progress from the agent's actual physical presence at the scene to the application of lethal force."

Agents are instructed to first attempt to achieve control through verbal commands, or persuasion, when practical. Reasonable force may be applied when resistance to arrest, or threat to life, is encountered. It is the agent who must determine, based on the circumstances known to the agent at the time, the necessity and appropriate level of force to employ

based on the severity of the crime, threat posed, and level of resistance, potential danger to the public, and rapidly changing dynamics of a situation.

The application of force includes a wide range of alternatives. Those include the mere presence of the agent, verbal commands, approved compliance techniques, Bureau-issued chemical agents, other defensive tools and techniques, and, finally, lethal force. Agents are to modify their level of force in relation to the amount of resistance offered by the subject. If resistance lessens, the agent shall lower the amount or type of force applied. Conversely, if resistance escalates, agents are authorized to respond with appropriate techniques and tools to gain control. Agents are to approach all situations in a manner consistent with Bureau policy and training. When situations cannot be diffused through advice, warnings or verbal persuasion, agents are to make tactically sound decisions, use back-up officers and safety training to minimize the danger to themselves and the need to use force. If defensive tools are used, they must be used in accordance with procedures and training.

In the case of Johnson's arrest, agents only used physical force to detain and arrest Johnson. They did not utilize any such defensive tools. The injury to Johnson occurred when the agents and Johnson went to the ground and Johnson's head came into contact with the hard surface sidewalk. Photographs also depict abrasions to the agent's extremities when they contacted the sidewalk.

██████████ concluded his investigation with the following summary of facts:

According to the officers' reports, and the totality of the witness statements, Johnson attempted to enter Trinity Irish Pub at approximately 12:45 a.m. on March 18, 2015. He presented an Illinois ID card with an old address on it, and gave ██████████ a different zip code than that which appeared on the ID. ██████████ denied him entry, and Johnson persisted with attempts to prove the ID was valid. His objections became louder, and according to some, included cursing and swearing. Johnson told Cannon he believed the bouncer to be a plain clothes ABC officer. Johnson's apparent routine was to deal with ██████████. ██████████ himself reported he did not usually work the door. ██████████ and Johnson did not know each other. The agents present to make observations in, and around, licensed establishments approached to inquire further about the ID.

Student witnesses confirm that fake ID's are prevalent, and often used by underage students to gain entry into bars on 'The Corner.' When Miller

asked to see the ID, Johnson did not comply, and used words such as, "No, I'm good," and attempted to ignore Miller, and walk away. Miller continued to seek the ID of Johnson, and placed his hand on Johnson's arm which, according to his own words and witness accounts Johnson "shrugged" off. Custer confronted Johnson, and reported telling Johnson, "The police officer behind you is trying to talk to you." By some accounts, Johnson was already making bias based accusations towards the officers.

Johnson turned away, and continued to try and leave before the agents could investigate further. The two officers each took hold of an arm, and the resistance offered by Johnson caused them to move about on the sidewalk area for several seconds. The agents reported attempting to "escort" Johnson to the ground. Most witnesses, and the agents, reported the three tripped and fell hard to the ground simultaneously. With Johnson's arms restrained, his head struck the ground first causing the laceration. Video of Johnson and the agents on the ground showed one arm controlled more than the other during the handcuffing attempt. One agent was clearly heard telling Johnson to, "Stop fighting and put your hands behind your back." (See Attachment No. 7)

Once secured, Johnson continued to make bias-based accusations and statements to the police officers and rescue personnel on scene. He was described as "belligerent" and "agitated," and was seen on a video from the CPD transport van moving about and not allowing rescue personnel to clean his wound. Johnson was ultimately transported to UVA Medical Center, treated and subsequently transported to ACRJ where he appeared before a magistrate.

The magistrate, found probable cause based on sworn statements from Miller, and issued an arrest warrant for a violation of Section 18.2-460, Code of Virginia for Obstruction of Justice, a Class 1 Misdemeanor (See Attachment No. 8) and a summons for a violation of Section 18.2-388, Code of Virginia for Public Intoxication. (See Attachment No. 9) The magistrate also issued a Commitment Order holding Johnson until deemed sober. Johnson was described by acquaintances and strangers in various terms to be intoxicated.

Johnson's own statement and description of the events preceding the encounter with the agents was limited by his legal counsel. He did not comment on whether he did or did not consume alcohol. His account of who was in his company was inconsistent with the statements of others.

The agents in this matter also limited their statements upon the advice of legal Counsel, to the written reports submitted in accordance with their duties that night.

That concludes the summary of the criminal investigation.

I interviewed Chris Goodman, Deputy Director of ABC, on June 25, 2015 in his office at the ABC Main Office located at 2901 Hermitage Road in Richmond, regarding this investigation. Captain Gary B. Payne was also present for the interview. We identified ourselves, and Goodman was made aware of the purpose of the interview. The interview began at approximately 2:00 p.m. and concluded at approximately 2:30 p.m.

Goodman said it is his practice to have the regional agents in charge contact their special agents in charge on a weekly basis to inquire about the work plans each region has for the weekends. These plans are then submitted to Goodman for review/approval. The plans submitted from Cannon to Michael T. McKee, Regional Agent in Charge, concerning the Saint Patrick's Day holiday, 2015, were received by Goodman and approved. Goodman explained the activities the agents had planned did not require an operations plan.

Goodman said he was notified of the incident involving the arrest and injury of Johnson on the morning of March 18, 2015, by McKee. McKee explained the details surrounding the incident, and told Goodman, Cannon had responded to the hospital to investigate the matter. Goodman felt as though all the proper notifications and procedures had been followed, including submission of the required reports.

That concluded the interview with Goodman.

I interviewed Custer on June 25, 2015, in the conference room at the ABC Office located in Charlottesville. Captain Payne was also present for the interview. We identified ourselves by presenting our Internal Affairs identification. Custer was presented with a letter informing him this was an administrative investigation/review being conducted at the request of the Office of the Governor, and that a written statement would be required. (See Attachment No. 10) Custer's oral statements were essentially the same as included in his letter dated June 26, 2015. (See Attachment No. 11) The interview began at 10:05 a.m. and concluded at 11:55 a.m.

Custer said prior to the night of March 17, 2015, he received an e-mail from Cannon asking the name of any Irish pub, or restaurant, in his assigned territory. Custer responded back to Cannon he did not have any Irish pubs or restaurants. A few days later, an unannounced meeting occurred with Agents Cielakie, Miller, Cannon and Custer to discuss the option of working Saint Patrick's Day in the city of Charlottesville, or at an upcoming sorority party. It was determined their efforts would be best utilized on Saint Patrick's Day. It was also determined there are a couple of Irish bar

businesses in the city of Charlottesville they would need to check on. They were McGrady's and Trinity's. A couple of days later, they discovered a large 'rave party' was going to be held on Saint Patrick's Day at the Jefferson Theatre located in the downtown mall in Charlottesville. It was discussed and agreed on Cielakie, Miller, and Custer would start their night working the area of the Jefferson Theatre where they have a good working relationship, and later they would make their way to 'The Corner' area of Charlottesville.

On March 17, 2015, the agents met at the Regional office dressed in their department-issued uniforms, as they discussed prior. Cielakie made notification to Charlottesville dispatch and State Police dispatch making them aware they would be out working in these areas, how they were dressed, and a description of the vehicles they would be driving. All agents were wearing their duty belt containing their issued handgun, pepper spray, handcuffs, and Asp baton. All of the agents loaded into their vehicles along with summonses books, evidence bags, and evidence containers. They then made their way to the Jefferson Theatre.

Once at the Jefferson Theatre, the agents met with the various bouncers and employees. They stood around talking for a while, and just getting to know each other waiting for the specific time the doors would open. Once the doors opened, it was a very diverse crowd; young, old, and of all races. Everything ran smoothly the entire evening. On one occasion, Custer was alerted by one of the bouncers he believed he had a young female presenting him an ID that was not her own. He took possession of the ID, and asked the young lady to step to the side. After Custer felt certain this was not her ID, he explained to her he was going to issue her a summons for using or attempting to use a fake ID in order to consume alcoholic beverages. They continued to monitor the lines coming into the Jefferson Theatre for a while, and made several trips into the event where they observed many people consuming alcoholic beverages, dancing, and socializing. They then met with the manager and bouncer, and made them aware they were going to be leaving the event.

Custer said, after leaving the Jefferson Theatre, the agents stopped at a McDonald's where they had some dinner, and discussed the event at the Jefferson Theatre, and how great a relationship ABC has with the management there. They discussed where they were going next, which was 'The Corner' area. Miller contacted a previous coworker, [REDACTED], who works for Charlottesville Police Department, and made arrangements to meet near the police substation near 'The Corner.' They drove to the predetermined meeting spot where they all introduced themselves to other law enforcement officers. After speaking with them for a short while, the three ABC agents ended up across the street in front of Trinity Irish Pub along with the Fire Marshall ([REDACTED]).

While standing out front, they were made aware by [REDACTED], Trinity was over occupancy, and he had already told them to let some people leave. [REDACTED] described it as extremely

packed and dark inside the club. Soon after, [REDACTED] asked if one, or all of them, would go inside with him because it was so crowded, and if something happened, he did not want to be in there alone. Cielakie and Custer went into the establishment with [REDACTED] where Custer observed it was just as described. It was very crowded with a diverse group of males and females from young to old. During the walk through, Custer observed it was not well lit. On the second floor there was a young female who was vomiting on the floor. When he asked if she was okay, a bouncer came and escorted her down the stairs, and out the door. After walking through the establishment, they made their way back outside where they stood closest to the curb and observed actions from the patrons on the balcony and in line to enter. While standing outside, one of the bouncers asked Custer if he could help get the crowd back because they were starting to push each other, and it was beginning to place the bouncers with their backs against the metal railing causing them to not have control over the entrance door. Custer responded letting the bouncer know they were not there to interfere with their business, and it was not their responsibility to control all those kids.

Custer said he noticed Cielakie speaking to a male who came from inside the establishment, who he later learned was [REDACTED]. He overheard [REDACTED] state he was glad they were out, and Cielakie said something to the effect of, "We aren't here because of complaints or anything, just working the area." [REDACTED] went back inside, and all of the agents and [REDACTED] continued to watch the crowds of people, and monitor what was going on. He observed, on several occasions, male and female patrons walk up to the exit area where different bouncers would allow them to come inside without waiting in the line. The crowd outside was pushing each other and the gate was pushed out from its original place due to the pushing of people. Custer also observed several people jump over the gate due to the fact they were being pushed too hard against it. Custer recalled on two to three occasions, while standing on the curb with [REDACTED], a young-appearing, light skin, male subject walked by staring at them. As he walked by them on one occasion, he made the statement, "Fucking Pigs." No one responded to the foolish comment. The same subject walked by again and, was saying very loudly, "You smell that? You smell that? Smells like a bunch of pigs are out." Still no one responded to his comments.

As Custer continued observing the crowds and speaking with [REDACTED], he observed a young-appearing black male, later determined to be Johnson, present what appeared to be identification to [REDACTED]. He was standing approximately ten yards from this interaction. He observed [REDACTED] place the ID in his right hand, and hold it out toward the exit area of the front of the establishment. He then observed Johnson snatch the ID from [REDACTED] hand in a quick, and, what appeared to be, forceful way, not gently removing it. Custer saw Miller make movement toward Johnson. He could see Miller's lips moving but was unable to hear what he was saying. Johnson took a small side step to move around Miller, and Miller reached out and placed his hand on Johnson's right elbow. Johnson quickly jerked his arm from Miller's hand, and continued walking.

Custer took a couple steps forward within a few feet of Johnson facing him. Custer placed his left hand out pointing behind Johnson, and stated, "The police officer behind you is trying to talk to you." Johnson looked up at Custer, paused briefly looking at his chest area where his name and badge were present. Custer was then able to observe Johnson's eyes were glassy, and he could also smell a strong odor of alcoholic beverages. However, at that time, he could not determine if it was from Johnson or just the people in the area. Johnson attempted to turn toward the left, and walk around, or away, to evade Custer when he reached out and grabbed Johnson's left arm creating a barrier so he could not continue to turn away, and continue walking. As Custer placed his hand on Johnson's left arm, Johnson immediately attempted to pull away. He lost his grip on Johnson's arm but managed to grab his wrist and then stated, "Stop, Police."

Immediately, Johnson started jerking, spinning, and pulling away from Custer in an attempt to break his grip. Custer recalled a very brief struggle where Johnson was attempting to break free, before they quickly, and accidentally fell to the ground. Custer explained he did not have time, nor did he attempt to perform any type of offensive or defensive tactic to take Johnson to the ground. When they fell to the ground, he remembered his elbow striking a metal grate. Johnson's arm and weight was on top of Custer's right arm. He recalled thinking he needed to get up, and get control of the situation. As he pushed up from the ground, Custer still had Johnson's wrist, and was able to overpower him, and place it in the small of his back. He placed his knee on Johnson's shoulder blade area. Custer was able to retrieve a pair of handcuffs from his duty belt, and place Johnson's left wrist in the handcuff, securing it. It was then, he noticed that Miller was on the ground as well, and he began struggling with Johnson to gain control of his right wrist. Custer began giving orders to Johnson to stop fighting, and stop resisting. Johnson began screaming, "You fucking racists!", "Look what you did to me you fucking white racists!", "I go to UVA you racists!" over and over again. During this time, Johnson was able to look over his right shoulder where Custer was, and he noticed a small gash on Johnson's hairline that was bleeding.

Custer said he told Johnson to stop resisting because they had to get him secure before the EMT's could look at him. Miller continued to struggle for the right wrist during the entire time. Custer could feel pain shooting through his elbow, and at times feeling like it was numb. He continued to hold Johnson's wrist in the small of his back as he continued to resist them by pulling his arm away, spinning on the ground, and trying to roll over. Custer did not feel he needed to increase the amount of force he was using because he had enough control of Johnson that he could not run away or injure them. At no time did Custer or anyone else strike, punch, kick, knee, throw, or slam Johnson during this altercation. As Miller was able to gain some control of Johnson's right wrist, and place it toward the small of his back, Custer attempted to place the other handcuff on it. But Johnson was able to grab the handcuff with his left fingers trapping his fingers on his right hand in the chain links. Johnson was able to overpower Miller, and get his wrist back out to the side of his body.

Throughout the incident, Custer observed many people from the crowd screaming, "They slammed him!", "His face is cut up!", "They beat him!", "Get the fuck up off him!" He also noticed many people holding their phones trying to record the incident. Custer heard, from the crowd of onlookers, a male's voice saying "Calm down Martese." Custer looked up at the gentleman who was a young, black male, and asked, "What is his name?" He responded, "Martese, but everyone calls him Tese." Custer then began calling Johnson 'Martese' and 'Tese'; trying to become more personal in hopes of calming him. Custer observed Cielakie walk over, and place a handcuff on the right wrist of Johnson, and pull it back over to his handcuff where they were able to lock the two pairs of handcuffs together. Johnson continued to try and roll over and continued to kick his legs and feet. Miller and Cielakie were able to control his legs, and another law enforcement officer brought a pair of leg shackles over, and they were placed on Johnson's ankles. Johnson seemed to calm down for a few moments and followed instructions as to how they would roll him over onto his butt, place one foot under him, and roll him up. Custer escorted him to the awaiting ambulance and Johnson, again, became irrational, and started making the racist comments again toward the white male EMT that first tried to look at his injury. Johnson made a statement the EMT was also a racist. The EMT disappeared from Custer's view, and a female EMT, who appeared to be Middle Eastern or Indian, appeared and Johnson stated to her "Look what they did to me, you understand were both minorities." Custer continued to try to calm Johnson, and get him to have a seat so they could look at his injury.

After several minutes, Johnson took a seat on the rear of the ambulance where they could visually see his injury, [REDACTED]. Miller rode with Johnson in the ambulance, and Custer and Cielakie rode separately to UVA hospital. Upon arriving at the hospital, Johnson was already in a room in the emergency room. Custer was standing outside of the room, approximately 15 feet away, and could smell a strong odor of an alcoholic beverage coming from Johnson.

[REDACTED]

Cannon responded to the hospital where Custer met with him, and explained to him the pain he was having in his right elbow. Cannon advised him since he was already at the hospital he should go ahead and have it checked out. Custer proceeded to the sign-in area where he was signed into the hospital as a patient and placed in a waiting room. He was soon taken to the x-ray department where x-rays were taken of his right elbow which at the time was giving him the most pain. Custer also explained to Cannon what he observed and what occurred at Trinity. He was discharged from the hospital at approximately 4:00 a.m. He gave Cielakie a ride back to the office and then went to his house, cleaned himself up, changed clothes, and reported back to the office to write his initial reports.

At the conclusion of the interview, photographs were taken of the uniform shirt Custer and the other agents were wearing at the time of the incident. (See Attachment No. 12)

That concluded the interview with Custer.

I interviewed Cielakie on June 25, 2015 in the conference room at the ABC Office located in Charlottesville. Captain Payne was also present for the interview. We identified ourselves by presenting our Internal Affairs identification. Cielakie was presented with a letter informing him this was an administrative investigation/review being conducted at the request of the Office of the Governor, and that a written statement would be required. (See Attachment No. 13) Cielakie's oral statements were essentially the same as included in his letter dated June 29, 2015. (See Attachment No. 14) The interview began at 10:05 a.m. and concluded at 11:55 a.m.

Cielakie said on March 10, 2015, he, Cannon, and Miller, met with [REDACTED] and [REDACTED], the owners of Trinity Irish Pub at the Regional Office in Charlottesville. The purpose of the meeting was to go over numerous complaints of underage consumption, the over service to patrons, overcrowding of the establishment, and numerous other complaints that agents had received at that location. [REDACTED] and [REDACTED] stated they felt like they were singled out as a bar, and never knew what ABC's expectations were of them. They were advised of the complaints, and made aware of their anticipated presence there on March 17, 2015. [REDACTED] stated he loved it when they come out because it helped with problems at the establishment.

Later that day at a Regional Meeting held by Cannon, the agents were asked how many Irish bars they had in their territories. They were asked if they were going to work the weekend before Saint Patrick's Day, or the night of. The agents stated they would rather work the night of. Cielakie explained they were not required to give an operations plan for working on Saint Patrick's Day, and all agents collectively decided to dress in full uniform. They did this because they wanted everyone to know that they were police officers.

On March 17, 2015, Cielakie, Custer, and Miller's assignments included working several locations celebrating Saint Patrick's Day events. The first location they went to was the Jefferson Theatre on East Main Street at the Downtown Mall where they stayed approximately two hours. They then went to 'The Corner' area of the city of Charlottesville. Cielakie contacted the Emergency Communications Center (ECC) of Charlottesville and the State Police in Appomattox to advise them they were working. Cielakie advised ECC and Appomattox they were in full uniform, driving an unmarked silver, Chevrolet Impala, the areas of which they were working, a contact phone number, unit numbers of agents working, and also told them they had a local Charlottesville radio and could be in immediate communication with ECC.

Cielakie said, while at 'The Corner,' [REDACTED] was going in all businesses and checking occupancy numbers. One location that was extremely busy was Trinity Irish Pub. There was a very large crowd standing outside, and people were pushing and shoving to get closer to the doors as the bouncers were only letting a small amount of people inside at a time. The crowd was getting so large they were pushing the gate on the front patio area out towards the roadway. [REDACTED] came out and spoke to the agents and [REDACTED]. Cielakie advised [REDACTED] they were not there "looking" for violations, but were concerned about the crowd out front. [REDACTED] told Cielakie thank you, and then stated he was glad they were there because it made his life easier when they were out.

While watching the crowd, Cielakie observed a youthful appearing, black male with a flat top hair cut (Johnson) walk up to [REDACTED], and produce some form of identification. [REDACTED] looked at the ID, and then held it towards the exit shaking his head in a "no" fashion. Johnson grabbed the ID out of [REDACTED]'s hands, and walked towards the exit. At that time, Miller began to walk towards Johnson. Cielakie asked him if he was going to check the ID, and he stated he was. Cielakie began to talk with [REDACTED]. Cielakie turned toward Miller, and saw Johnson pulling away from him and Custer. Custer had his left arm and Miller had his right. They were headed in the direction of the College Inn. Johnson was actively resisting both of them. While attempting to place Johnson under arrest, Cielakie observed Custer trip, and all three fell to the ground. When they fell, he saw Johnson hit his head on the brick walkway, and blood start to come from his head.

At that time, a huge crowd formed, and began to shout racially motivated slurs making reference to recent nationwide media events. Cielakie immediately got on the Charlottesville radio, and advised ECC of their location, asked for more officers, and also called for a rescue squad to be en route to the scene. Custer was yelling at Johnson to stop resisting arrest the entire time he was trying to handcuff him. Johnson continued to actively fight, and resist arrest. Custer and Miller were able to get one handcuff on, but could not get Johnson's right arm in the handcuff. Cielakie assisted Custer by using another pair of handcuffs to place on Johnson's right arm. Once handcuffed, Johnson continued to fight and resist. He was screaming racial slurs, "You fucking racist! You Fucking Racist! I go to UVA!" He stated that this was happening because he was black. The crowd continued to video, and got a lot more aggressive. Once other Charlottesville and UVA Police arrived on scene, Cielakie was able to get a pair of shackles, and assist Miller with putting them on Johnson. Johnson continued to shout racial slurs at officers, rescue squad personnel, and the crowd. Johnson was taken to UVA Hospital for treatment by ambulance, and Cielakie called Cannon to advise him of the situation, and requested he come out. Cannon stated that he would be en route to the hospital.

Cielakie said he saw no officer punch, strike, kick, hit, or knee Johnson. Additionally, he never saw Custer or Miller intentionally throw Johnson onto his head. The agents only

acted with professionalism during a hard situation. It only appeared this was a result of Custer falling.

Once at the hospital, Cielakie went inside, and spoke with Johnson. Johnson was attempting to deny treatment of his head because he did not have the money. Cielakie advised him he needed to get his head checked out, and told him the hospital could speak to him more in-depth on payment; but, all the agents cared about was making sure his head was treated. Johnson agreed to be treated. Cielakie waited with Custer in a separate room, who was being treated for pain in his arm. When Custer was released, they returned to the office. Cannon accompanied Miller to the magistrate's office.

At the conclusion of the interview, photographs were taken of the uniform jacket Cielakie was wearing at the time the incident took place. (See Attachment No. 15)

That concluded the interview with Cielakie.

I interviewed Miller on June 29, 2015, in the conference room at the ABC Office located in Charlottesville. Captain Payne was also present for the interview. We identified ourselves by presenting our Internal Affairs identification. Miller was presented with a letter informing him this was an administrative investigation/review being conducted at the request of the Office of the Governor, and that a written statement would be required. (See Attachment No. 16) Miller's oral statements were essentially the same as included in his letter dated June 29, 2015. (See Attachment No. 17) The interview began at 10:15 a.m. and concluded at 11:23 a.m.

Miller said on March 10, 2015, Cannon, Cielakie, and he met with [REDACTED] and [REDACTED], at the Charlottesville Regional Office. They received several complaints of underage drinking, serving intoxicated persons, and overcrowding at Trinity. Miller recently informed [REDACTED] of three pending administrative charges he would be filing, and [REDACTED] said he felt as though ABC was "picking on" his establishment because they chose to appeal the last administrative charges of which they were found guilty. In response to this, Miller decided to set up a meeting that included Cannon, so they could understand exactly what ABC's expectations were. They encouraged [REDACTED] and [REDACTED] not to hesitate to reach out to them if they ever had any questions or concerns. The agents also informed them they would be working on Saint Patrick's Day, and would be stopping by their establishment to make sure everything was under control, especially because it was an Irish-themed establishment. [REDACTED] stated he loved when ABC agents were out, because the kids would not try to get away with as much if they made their presence known.

After the meeting, Miller met with Cannon, Cielakie, and Custer to discuss whether they were going to work on the weekend before Saint Patrick's Day or on Saint Patrick's Day itself. After deciding to work on March 17, 2015, they discussed whether they were

going to wear plain clothes or a full uniform. They decided a full uniform would be better in regards to identifying themselves as police officers. Because it was not required by policy, they did not write an operations plan.

Miller said on March 17, 2015, at approximately 5:00 p.m., Cielakie, Custer, and he began their uniformed work in Charlottesville. They began by contacting the local and state dispatches to let them know they were working. They provided them with their names, badge numbers, uniform description, vehicle description, areas they would be working, and cell phone numbers. Earlier in the day, they received information a concert at the Jefferson Theatre may attract an underage crowd so they decided to go there first. During the approximate two hour period they spent there, Custer issued one summons, and Cielakie checked an ID brought to him by a bouncer. The ID turned out to be real, and belonged to the person possessing it. After leaving The Jefferson Theatre, they went to 'The Corner,' an area primarily on University Avenue, and frequented by University of Virginia students. While en route, Miller contacted [REDACTED], a member of the Charlottesville Police Department, to see if he was working and if he wanted to meet them at 'The Corner.' Upon arrival, Miller saw several officers from the UVA Police Department, a Charlottesville Fire Marshal ([REDACTED]), [REDACTED], and at least one other Charlottesville Police Officer.

After speaking with those other officers, Miller, Cielakie, Custer, and [REDACTED], walked to the front of Trinity Irish Pub. It was established [REDACTED] was going to several locations on 'The Corner' to check occupancy levels. All the agents and [REDACTED] entered Trinity, and walked upstairs to check occupancy. It was crowded to the point people could barely walk from one side of the room to the other. [REDACTED] informed a bouncer they were over occupancy, and that no one else was allowed in. After exiting the establishment, [REDACTED] and Miller walked down to Boylan Heights, another popular establishment on 'The Corner,' to check their occupancy. After walking upstairs and back down, [REDACTED] also informed the bouncer they were over occupancy, and would not be allowed to allow anyone else in unless some of the people inside left. They returned to Trinity to meet with Cielakie and Custer. Upon arriving at Trinity, Miller saw the line to get in was much longer, and it appeared the crowd was beginning to push and shove in an attempt to get in. The crowd was very diverse in both race and ethnicity, and consisted mostly of college-aged persons. [REDACTED] walked out, and told them he was glad they were out, and they were going to make his job much easier.

Miller said, around 12:45 a.m., he was watching the bouncers, as well as [REDACTED], check ID's at the door. During one such interaction, he saw [REDACTED] look at a male's ID (Johnson), then give him his ID back, and send him away. Miller began to approach Johnson, and Cielakie asked if he was going to check his ID. Miller told him he was. As Johnson turned to walk away, Miller approached him, and identified himself as a police officer, then asked to see his ID. At that time, Miller could see Johnson had bloodshot, glassy eyes. However, the only reason he initially approached Johnson was because he suspected he may have a borrowed or false identification. Johnson said

something Miller could not understand, and began walking away in a Northwest direction, towards The College Inn.

At that time, Miller placed his right hand on Johnson's right elbow, again identified himself as a police officer, and told him to stop, and show him his ID. Johnson shrugged his right arm away from Miller, and continued walking. Miller grabbed his arm, and again identified himself as a police officer, and told him to stop because he needed to check his ID. When Miller grabbed Johnson's arm, Johnson pulled away again, and, as he did, his coat began to come off. At the same time, Johnson began walking faster. This gave Miller the impression he may attempt to flee. At the same time this was occurring, Custer grabbed Johnson's left arm, identified him and Miller as police officers, and told him to stop. Miller saw Johnson attempt to pull away from Custer, as well. Based on Johnson's actions, Miller and Custer attempted to take Johnson to the ground. Johnson began actively resisting, to the point Miller started to lose his grip on his arm. Miller decided based on his attempt to flee, it would be safer to escort Johnson to the ground before they attempted to handcuff him. Before they could safely escort Johnson to the ground, the struggle caused all three of them to fall to the ground. It felt as if someone tripped, and Miller was being pulled down to his left side as a result. Miller landed on his left hip. At no time did the fall feel like it was intentional.

Once on the ground, Miller began telling Johnson to stop resisting, and to put his hands behind his back. Johnson ignored his commands, and continued to try to pull away and get back on his feet. He was kicking but Miller felt it was more of an effort to get away than it was to kick Custer or him. In an attempt to stop Johnson's attempts to get back up, Miller placed his knees over the backs of his legs, near his knees. Johnson continued to try to get on his feet. During this time, Miller could see Johnson had a laceration on his forehead. Custer was able to get Johnson's left hand in a handcuff, however, Miller was having a difficult time securing his legs, and controlling his right arm at the same time. Because of the struggle Johnson was putting up, Miller decided to place a second set of handcuffs on him instead of continuing to try to place only one set on him. Eventually, Custer, Cielakie, and Miller were able to place Johnson in both sets of handcuffs. Johnson, however, continued to try to pull away from them, and get back on his feet. As all of this was going on, a large crowd began to gather; some filming them, and others just screaming things at them. After what seemed like several minutes, Charlottesville Police, along with UVA Police, arrived on scene to assist with crowd control. Because Johnson was continuing to kick his feet, Miller was able to obtain leg shackles from one of the other officers, and place them on Johnson.

From the time they went to the ground, throughout the entire incident, Johnson was screaming things at them. A few days later, after viewing videos of the incident, Miller saw he was calling them "fucking racists" and screaming, "I go to UVA." While they were trying to secure Johnson, Miller could smell the strong odor of an alcoholic beverage, coming from his person. Eventually, they were able to get Johnson to stop resisting enough that they could get him on his feet to be checked out by the EMT's.

While he was being checked out by the EMT's, Johnson remained very belligerent, and did not seem to be able to tell the difference between an EMT and a police officer. After EMT's did an initial assessment of his condition, they put Johnson on a stretcher, and moved him into the back of the ambulance. Miller got in the ambulance, and sat behind Johnson, in the hope he would not see him, and become combative again. [REDACTED]

After arriving at the hospital, Miller began taking his initial notes of the incident. At some point, Cannon arrived at the hospital, and made contact with Johnson. Cannon gave Miller Johnson's Illinois ID. After looking at the ID, Miller was able to determine it was a valid ID, and Johnson was only 20 years old. Miller began discussing with Cannon what he would be charging Johnson with. He wanted to charge Johnson with Drunk in Public, Underage Possession of Alcohol, Obstruction of Justice, and Resisting Arrest. Cannon contacted his supervisor, Michael McKee, Regional Agent in Charge and informed him of the incident. McKee advised, for the night, Johnson should only be charged with Drunk in Public, and the other charges could be discussed at a later time with the Charlottesville Commonwealth's Attorney. Miller told Cannon at the bare minimum, he would feel much more comfortable bringing at least the Obstruction of Justice charge because of the injuries Johnson received as a result of the incident, and Cannon agreed.

After Johnson finished receiving treatment, he was released into Miller's custody. Miller contacted the Charlottesville Police Department, and arranged for a transport van to transport Johnson to the jail. While in the Magistrate's Office, Johnson interrupted Miller several times while he was attempting to give his probable cause statement to the Magistrate. He called Miller a liar, and cursed several times throughout his testimony. The longer they remained in the closed Magistrate's Office, the stronger the smell of alcohol became. Miller obtained warrants for Obstruction of Justice and Drunk in Public.

That concluded the interview with Miller.

I interviewed Cannon on June 29, 2015, in the conference room at the ABC Office located in Charlottesville. Captain Payne was also present for the interview. We identified ourselves by presenting our Internal Affairs identification. Cannon was presented with a letter informing him this was an administrative investigation/review being conducted at the request of the Office of the Governor, and that a written statement would be required. (See Attachment No. 18) Cannon's oral statements were essentially the same as included in his letter dated June 30, 2015. (See Attachment No. 19) The interview began at 11:45 a.m. and concluded at 12:32 p.m.

Cannon said on March 6, 2015, he received an email from McKee, instructing all of the Special Agents in Charge in his region to provide him with events planned surrounding

the Saint Patrick's Day holiday. The deadline was set as March 11, 2015, and, Cannon replied with his plans for the holiday. (See Attachment No. 20)

On March 10, 2015, at approximately 9:00 a.m., Cannon, Cielakie, and Miller met with [REDACTED] and [REDACTED] in the Charlottesville Regional Office to discuss several concerns they had regarding the existing relationship between Virginia ABC and their establishment. [REDACTED]'s main concern dealt with how they did not feel they were properly notified of the administrative violations that took place the night of the UVA versus Miami football game. He felt they were unfairly singled out and picked on, and ABC was not trying to work with them. During the conversation, Cannon advised [REDACTED] they were looking at all establishments where a pattern has been identified in dealing with underage drinking, services to intoxicated patrons, and knowingly allowing underage patrons to frequent the premises. After a lengthy discussion, Cannon advised both men Saint Patrick's Day was coming up, and they would be working that night to include spending time on the UVA 'Corner' area. They ended the meeting on good terms with the expectation to provide training to their employees over the next few months, and again right before the start of the fall semester.

Later that morning, Cannon had a roll call meeting with his team and, the Saint Patrick's Day operation was on the agenda. He identified the target establishments, and discussed the uniform for the operation. He also instructed the agents to notify Albemarle/Charlottesville/UVA ECC prior to the start of the operation, and at the conclusion by calling in on-air, so everyone could hear they were out working.

On March 17, 2015, Cannon received a call from a concerned citizen advising him there was a group performing at the Jefferson Theater, known for having a young following who would probably be drinking underage and using illicit drugs. So this establishment was added to their list for the evening. Throughout the day, he discussed the evening events with the agents so everyone would be on the same page, and know what was going on.

Cannon explained he did not prepare an operations plan because he did not feel their activities fit the criteria outlined in the General Orders. That night's activities were what they would routinely do, go out at night, and check establishments for criminal and administrative violations in either plain clothes or in uniform. Cannon chose to have the agents wear the uniform because he wanted everyone to clearly know who the agents were. Cannon left the office at approximately 5:30 p.m., and ended his shift. He did not accompany the agents that evening.

On March 18, 2015, at approximately 12:55 a.m., Cannon received a call from Cielakie informing him an incident had taken place, and the suspect was injured on 'The Corner' area near Trinity. He advised Cannon he called for assistance and a rescue squad, and they were on their way. At approximately 1:12 a.m., Cannon called Cielakie to find out where they were located, and he told Cannon the suspect was being transported to

UVA Hospital. At approximately 1:27 a.m., Cannon arrived at the emergency room, and located Miller, Cielakie, and Custer.

Cannon began his investigation into the matter by obtaining a statement from Miller, since he was the arresting officer. Miller described how he observed Johnson being turned away from Trinity so he intended to check his ID to determine if it was valid. Miller described Johnson resisted his and Custer's efforts to detain him, and in the struggle, all three of them fell to the ground. As a result, Johnson's head struck the sidewalk causing a laceration on his forehead.

After talking to Miller, Cannon met with Johnson in the emergency treatment room. Upon entering the room, he could smell a strong odor of alcohol coming from Johnson as he sat on the bed still handcuffed. Cannon identified himself as Joseph Cannon, Special Agent in Charge with Virginia ABC, and he was the supervisor for the area. At that time, he showed Johnson his credentials, and gave him a business card. Cannon told Johnson he would probably be involved in conducting the investigation to determine what happened earlier that night. Cannon asked Johnson what happened to him. Johnson said he went to Trinity to talk to his friend [REDACTED], who is a bouncer there, when a white male approached him, asked for his ID, refused him entry, and gave his ID back. As he walked away an officer grabbed him, and threw him on the ground banging his head on a brick.

Cannon asked Johnson if he knew the person that turned him away, and he replied, "An ABC agent." Cannon asked how he knew the man was an ABC agent. Johnson replied, "He said he was ABC." At that time, Cannon informed Johnson the only ABC agents working were in uniform, and he may have mistaken one of the owners of Trinity as ABC. Johnson insisted the person who checked his ID said he was with ABC. The interview continued, and Johnson went on to say, "I want to file a report. I want to know why the officer banged my head on a brick. I want to know who the officer is that did this to me. I'm going to sue the police department." Cannon asked Johnson if he drank anything that night, and he replied, "Two beers at my apartment with a few friends between 9:30 p.m. and 10:00 p.m."

Cannon said he asked Johnson if he could take a few pictures of him, to document his appearance when he first arrived. At approximately 1:46 a.m., Cannon took six pictures of Johnson as he appeared when he first arrived. His face contained a large amount of dry blood. It all appeared to be coming from approximately a half-inch gash in the center of his head, near the hair line. Cannon exited the examination room to allow the staff time to continue their medical treatment. Cannon's observations of Johnson were, he had been drinking, and was impaired just based on his mood, mannerisms, and actions while he was in the room.

After leaving the room, Cannon met with Cielakie and Custer to talk to them about the incident. Custer told Cannon he had injured his elbow and knee during the fall, so he

had Custer registered in the emergency room where he was treated and x-rays were taken of his injuries. Cannon took photographs of Custer's knee, and he was later released.

At approximately 2:18 a.m., Cannon returned to Johnson's room where the medical staff had cleaned up Johnson's face. Cannon took three more photographs of Johnson's face after the wound had been cleaned and the blood cleaned from his face.

At approximately 2:20 a.m., Cannon contacted McKee, and advised him of the incident. He explained Johnson had a cut on the upper part of his head and Custer was being seen for his elbow and knee. He informed McKee of several charges they were considering; such as, Underage Possession, Drunk in Public, Resisting Arrest, and Obstruction of Justice. Cannon said he was instructed to charge Johnson with Drunk in Public, take him to jail, and they could consult with the Commonwealth's Attorney for any additional charges.

At approximately 3:34 a.m., Cannon returned to Johnson's room, where he took two more photographs of the area that had been stitched up by the medical staff. He was told Johnson received ten stitches. Johnson was transported by the Charlottesville Police Department van to the Albemarle/Charlottesville Regional Jail, and Cannon drove Miller to the magistrate's office at the jail.

Cannon said Miller appeared before the Magistrate, and testified to the facts of the incident. Warrants were issued for Drunk in Public and Obstruction of Justice. The two warrants were served on Johnson, and he became upset saying he did not do anything, and the officer was lying. He was taken into custody by one of the jail officers, who told him, "If you blow zeros in the PBT, I'll release you right now. If not, you will have to stay." Miller and Cannon left the jail, and returned to the Charlottesville ABC Office.

Cannon took photographs of whelp marks on Miller's right forearm. Later that morning, he reviewed and approved Miller's Response to Active Resistance Report. Cannon's conclusion was Miller's actions were justified. He met with Custer later that morning and took a photograph of his elbow that appeared to be swollen. Cannon reviewed and approved Custer's Response to Active Resistance Report. His conclusion was Custer's actions were justified. When Cannon talked to Cielakie, he stated his role in the incident was minor because he was standing near the door with [REDACTED]. After seeing the incident take place, he assisted in handcuffing Johnson with an extra set of handcuffs. Cielakie also assisted in placing shackles on Johnson after he continued to resist and kept kicking.

On July 17, 2015, Cannon was contacted to clarify statements in his letter where he stated there was no response to active resistance on the part of Custer and Miller. In clarifying, Cannon stated there was in fact a response by Custer and Miller to Johnson's actions and they were justified.

Between 11:10 a.m. and 11:30 a.m., Cannon spoke to Johnson's mother, Ms. [REDACTED] Johnson, on three separate occasions on the telephone. Ms. Johnson called Cannon's office as recommended by UVA Police [REDACTED] to obtain answers to her questions. While the conversations were brief, she voiced her concerns and anger because of the incident and the e-mails, pictures, and videos sent to her. Cannon advised Ms. Johnson of the charges, and she was upset about the Obstruction of Justice charge, and hung up on Cannon. She immediately called back saying she was upset, and just couldn't understand the Obstruction Charge, and said, "I'm sure he was drunk hanging out with his friend." She had not heard from her son, and was worried about him. Cannon told her her son had his business card if she needed to talk to him when she arrived in the area, and the second call ended. A few minutes later, Ms. Johnson called back saying she had just talked to her son, and he told her that one of the agents checked his ID and was questioning the zip code. Cannon told her his agents were in uniform, and it was the owner of Trinity who checked the ID. She said, "My son isn't a liar. I'm on my way today," and hung up on Cannon.

At approximately 1:00 p.m., Cannon talked to [REDACTED] to discuss what he saw happen earlier that morning. [REDACTED] stated he asked Johnson for his ID, he saw it was an Illinois ID, and asked, "What's your zip code?" Johnson replied, "60613." The zip code did not match and [REDACTED] knew that was the zip code to Wrigley Field, while the ID stated 60616. He asked Johnson where he went to school, and he said, "Kenwood Academy," which was still the wrong zip code. [REDACTED] said "I can't let you in; policy say's no one under 21."

That concluded the interview with Cannon.

On June 30, 2015, Captain Payne contacted Chapman by telephone to inquire if he desired to comment or give opinion regarding the administrative investigation/review. Chapman referenced the media event he hosted on June 17, 2015 at the City Hall Council Chambers in Charlottesville where he discussed much of the evidence that impacted his decision to drop charges against Johnson, and to not seek charges against any of the ABC agents involved in the incident. (See Attachment No. 21) He informed Captain Payne he did not feel the need for additional input from him, or his office concerning the administrative investigation/review.

On June 30, 2015, Captain Payne contacted Mr. Daniel P. Watkins, attorney for Johnson, to inquire if Johnson would be available for an interview regarding the administrative investigation/review. A meeting was tentatively scheduled for Friday July 3, 2015, at 2:00 p.m., in Washington D.C. where Johnson is working for the summer. After a schedule conflict, the meeting was canceled on July 2, 2015, and it was decided they would speak the following week to reschedule the meeting. On July 8, 2015, Captain Payne contacted Watkins to reschedule the meeting with Johnson. It was decided the meeting could be conducted via conference call, and Captain Payne agreed

to draft a list of questions we intended to ask Johnson, and fax them to Watkins for his review prior to the conference call. On July 9, 2015, Captain Payne faxed a list of questions to Watkins. In an e-mail he explained the purpose of these questions was to seek clarification/expansion on information discovered in the criminal investigation. On July 10, 2015, Watkins responded to Captain Payne's e-mail thanking him for transmitting the questions to him for review, but they were declining to take part in any interview with the State Police, or respond to the questions. (See Attachment No. 22)

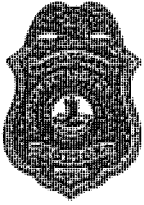
Attachments

1. Copy of Martese Johnson's Identification card. - **REDACTED**
2. Virginia ABC Bureau Incident Report.
3. Training records for each of the agents involved in the incident.
4. Letter from Shawn P. Walker documenting ABC enforcement statewide.
5. ABC General Order 216 – Operational Plans/Special Event Operations.
6. ABC General Order 200 – Response to Active Resistance.
7. Video taken of Johnson and the agents on the ground. – **PUBLICLY AVAILABLE**
8. Copy of arrest warrant for Obstruction of Justice.
9. Copy of summons for Public Intoxication.
10. Letter presented to Special Agent Thomas S. Custer.
11. Special Agent Thomas S. Custer's letter.
12. Photographs of the uniform shirt.
13. Letter presented to Special Agent John S. Cielakie.
14. Special Agent John S. Cielakie's letter.
15. Photographs of the uniform jacket.
16. Letter presented to Special Agent Jared B. Miller.
17. Special Agent Jared B. Miller's letter.
18. Letter presented to Special Agent in Charge Joseph L. Cannon.
19. Special Agent in Charge Joseph L. Cannon's letter.
20. Email from Special Agent in Charge Joseph L. Cannon to Regional Agent in Charge Michael T. McKee.

21. Video of media event hosted by Warren D. Chapman. – **PUBLICLY AVAILABLE**

22. E-mails between Captain Gary B. Payne and Daniel P. Watkins.

CPW



Virginia Alcoholic Beverage Control

Bureau of Law Enforcement

Incident Report

900 Natural Resources Drive, Suite 700 Charlottesville, VA 22903

Phone: (434) 977 - 2974 Fax: (434) 977 - 4772

Charlottesville Regional
Office

ORI VA0430300	County Charlottesville City	Venue Virginia	Report # 15-01462
Report Date / Time 03/18/2015 04:54 Hrs (US/Eastern)	Occurrence Date / Time 03/18/2015 00:45 Hrs - 03/18/2015 01:15 Hrs (US/Eastern)		File Class 2227

Nature of Incident: Underage Possession - Alcohol, Obstructing, Public Intoxication **Supplements:** Approved Report (3)**Summary:** Arrest for Drunk in Public and Obstruction of Justice

Incident Location

Address: 1505 University Avenue**City:** Charlottesville**County:****State:** Virginia**ZIP:** 22903**Country:** United States of America**Township of Occurrence:****Beat:** Region**Latitude:** 38.034937**Longitude:** -78.500301**Sub-Beat:** 9

Incident Offenses

Offense #	Offense	Status	Status Date
0	2227 - 18.2-460(A) : Obstruct Justice: W/O Threats/Force : Cleared by Arrest M :		03/18/2015 05:00 Hrs
0	2097 - 18.2-388 : Profane Swearing Or Intoxication In Public : M :	Cleared by Arrest	03/18/2015 05:02 Hrs

Officers Involved

Role	Name	Agency	Supp #
Assisting	Agent J. Cielakie (#1431)	Charlottesville Regional Office0	
	Agent T. Custer (#1446)	Charlottesville Regional Office0	
Reporting	Agent J. Miller (#1451)	Charlottesville Regional Office0	

Incident People

Arrestee, Suspect / Offender**Supp # 0****Name:** JOHNSON, MARTESE RASHAAD
(Primary Name)**Title:****Date of Birth:** [REDACTED] 1994**Race:** Black or African American**Sex:** M**Age at Occurrence:** 20 Years Old**DL #:** [REDACTED] (Illinois)**Address:** [REDACTED] (Date of Info: 03/18/2015)**Physical Description:** Hgt: 507**Wgt:** 165**Date of Info:** 03/18/2015**Hair:** Black Flattop**Length:** Short**Skin:** Medium Brown**Build:** Medium**Eyes:** Brown**Facial Hair:** None**Arrest Date:** 03/18/2015**Arrest Type:** Taken Into Custody

[Handwritten signature]

Incident Organizations

Victim

Society

Incident Narratives

Title: Original Narrative

Author: Jared Miller

Date / Time: 03/18/2015 05:11 Hrs

Supp #: 0

SA Jared Miller
3/18/2015

On 3/18/2015, around 12:45 AM, I was standing outside 1505 University Avenue (Trinity Irish Pub) with Special Agents Custer and Cielakie, as well as the City of Charlottesville Fire Marshall. All Special Agents of Virginia ABC were in full uniform, displaying a badge of authority. I was watching the bouncers, as well as [REDACTED] (owner of Trinity Irish Pub), check IDs at the door. During one such interaction, I saw [REDACTED] look at a male's ID (later identified as Martese Johnson), and then give him his ID back and send him away. As Johnson turned to walk away, I approached him and identified myself as a police officer, then asked to see his ID. I could see that he had bloodshot/glassy eyes. Johnson said something that I couldn't understand, then began walking away in a Northwest direction, towards The College Inn.

At that time, I placed my right hand on Johnson's left elbow and told him to stop and show me his ID. He shrugged his right arm away from me and continued walking. Then, I grabbed his arm and again told him to stop because I needed to check his ID. When I grabbed his arm, he pulled away again, and as he did so, his coat began to come off. At the same time, Johnson began walking faster. This gave me the impression that he may attempt to flee. At the same time this was occurring, Special Agent Custer grabbed his left arm and told him to stop. I saw Johnson attempt to pull away from SA Custer as well. Based on Johnson's actions, SA Custer and I attempted to take Johnson to the ground. Johnson began actively resisting, to the point that I started to lose me grip on his arm. Before we could safely escort Johnson to the ground, the struggle caused all three of us to fall to the ground. Once on the ground, I began telling Johnson to stop resisting and to put his hands behind his back. Johnson ignored my commands and continued to try to pull away and get back on his feet. At this time, I could see that Johnson had a laceration on his forehead. Eventually, myself and SA Custer were able to place Johnson in handcuffs. Johnson, however, continued to try to pull away from us and get back on his feet. I placed my knees over his legs in an attempt to stop this, however he continued to try to kick his legs out from my control. Finally, we were able to secure his legs in leg shackles.

From the time we went to the ground, throughout the entire incident, Johnson was screaming things at us, although I do not recall any specific statements. While we were trying to secure Johnson, I could smell the strong odor of an alcoholic beverage, coming from his person. Eventually, we were able to get Johnson to stop resisting enough that we could get him on his feet to be checked out by the EMTs. I rode with Johnson to the hospital, [REDACTED]
[REDACTED]
[REDACTED]

I obtained a warrant for Obstruction of Justice (18.2-460) and Drunk in Public (18.2-388). More charges may be filed, pending consultation with the Commonwealth's Attorney.

Nothing further at this time.

Supplemental Report

Case #15-001462

Special Agent J.S. Cielakie

Suspect: Martese Johnson

Offense: Drunk in Public and Obstruction of Justice

Date: 03/18/2015

On March 17-18th, 2015, Special Agents with the Charlottesville Region were working in the Charlottesville Area. The detail included working several locations that were celebrating Saint Patrick's Day events. The first location that we went to was the Jefferson Theatre on East Main Street at the Downtown Mall. Agents stayed there approximately 2 hours. After this, we left and went to the Corner Area of the City of Charlottesville. There were numerous other officers there including officers from the UVA Police Department, Charlottesville City Police Department, and one of the City of Charlottesville Fire Marshalls. It should be noted that Agent Cielakie contacted the Emergency Communications Center of Charlottesville City and the State Police in Appomattox to advise them that units were working. Agent Cielakie advised both ECC and Appomattox that Agents were in full uniform, that we were driving an unmarked silver Chevy Impala ABC Police Vehicle, the areas of which we were working, a contact phone number, unit numbers of Agents working, and also told them that Agents had local Charlottesville Radio and could be in immediate communication with ECC.

At the corner, the Charlottesville City Fire Marshall was going in all businesses and checking occupancy numbers. One of the locations that was extremely busy was Trinity Irish Pub. There was a very large crowd standing outside. They were pushing and shoving to get closer to the doors as the bouncers were only letting a small amount of people inside at a time. The crowd was getting so large that they were pushing the gated front patio area out towards the roadway. One of the owners, [REDACTED] came out and spoke to Agents and the Fire Marshall. Agent Cielakie advised [REDACTED] that Agents were not there "looking" for violations, but were concerned about the crowd that was out front. [REDACTED] told Agent Cielakie thank you, and then stated that he was glad we were there because it made his life easier when we were out.

While watching the crowd, Agent Cielakie observed a youthful appearing black male that had a flat top hair cut walk up to [REDACTED] and produce some form of identification. [REDACTED] looked at the identification and then held it towards the exit shaking his head in the "no" fashion. The male then grabbed the identification out of [REDACTED]'s hands and walked towards the exit. At this time, Agent Miller began to walk towards the male. I asked him if he was going to check the identification and he stated that he was. I then began to talk with the Fire Marshall. I turned towards Agent Miller and saw the male pulling away from him and Agent Custer. Agent Custer had his left arm and Agent Miller had his right. They were headed in the direction of the College Inn. The male was actively resisting both Agents. While attempting to place the male under arrest, I observed Agent Custer trip and all three fall to the ground. When they fell, I observed the male hit his head on the brick walkway. I saw blood start to come from the male's head. At this time a huge crowd formed and began to shout racially motivated slurs making reference to recent Nationwide Media Events. Agent Cielakie immediately got on the Charlottesville Radio and advised ECC of Agents location, asked for more officers, and also called for a rescue squad to be enroute to the scene. Agent Custer was yelling at the male to stop resisting arrest the

resist arrest. Agent Custer and Miller were able to get one handcuff on, but could not get the male's right arm in the cuff. Agent Cielakie then assisted Agent Custer with using another pair of handcuffs to place the subjects right arm in. Once handcuffed, the male continued to fight and resist. He was screaming racial slurs and yelling that this was happening because he was black. The crowd continued to video and got a lot more aggressive. Once other Charlottesville and UVA Police arrived on scene Agent Cielakie was able to get a pair of shackles and assist Agent Miller with putting them on the male. The male continued to shout racial slurs at officers, rescue squad, and the crowd. The male was taken to UVA Hospital for treatment by ambulance. Agent Cielakie called SAC Cannon and advised him of the situation and SAC Cannon stated that he would be enroute to the hospital.

Once at the hospital, Agent Cielakie went inside and spoke with the male identified as Martese Johnson. Martese was attempting to deny treatment of his head because he stated that he did not have the money. Agent Cielakie spoke with Martese and advised him that he needed to get his head checked out and then told him the hospital could speak to him more in-depth information on payment, but all Agents cared about was making sure his head was treated. Martese agreed to be treated. At this time there is no further information from this Agent.

Signed: Agent J. Cielakie (#1431)	Reviewed By: SAC J. Cannon (#1312)
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On March 17th 2015 While working in the Charlottesville Va area in uniform displaying my badge of authority Agents Custer, Agent Miller and Agent Cielakie had been assisting the Fire Marshall outside Trinity Irish Pub. While observing the line to enter the establishment I observed several individuals pushing each other in the crowd causing the barrier to push out into the sidewalk walkway. I also observed several individuals climb over the barrier in order to not be pressed up against the barrier. I then observed an employee who I was later told is an owner receive an Id from and young black male who was in the line to enter the establishment. I then observed the same employee/owner look at the id and appear to be pointing at the id and then placing it in his right hand and holding it straight out toward the exit of the waiting area. I then noticed at that time Agent Miller walk toward the employee and the subject. I observed Agent Miller speak to the subject and the subject continue to take another step away from Agent Miller. I observed Agent Miller then reach out toward the subject in another attempt to speak to him and ask for his Id, the subject withdrew his arm and turn his body in what appeared to be as in to move away from him. I then took approximately two steps forward and facing the subject I stated the Police officer behind you is trying to talk to you. The subject looked up at me and I observed that his eyes appeared glassy. Then the subject attempted to turn away from me and as he did I reached out toward his left arm in an attempt to assist Agent Miller with stopping the individual so he could conduct his investigation. As I placed my hand on the subjects left arm the subject then pulled away and attempted to move away. I then grabbed the subjects left wrist and stated stop Police. Immediately the subject attempted to pull away and spin from my grip quickly I found myself along with the subject falling to the ground landing on my right elbow and the subject struck his head on the sidewalk. I immediately stated police stop resisting as the subject continued to pull away and kick trying to break my grip. I continued to repeat to the subject police stop resisting as I pulled my handcuffs from my belt I was able to secure his left arm in one handcuff and as I attempted to place the right wrist of the subject in the handcuff he is able to grasp the cuff pinching my right hand in the chain links of the handcuffs. The subject continually attempts to turn over, makes several accusations racially I continue to tell the subject to stop resisting arrest that its over and we have an ambulance in route to check him out. I then observe Agent Cielakie walk closer and place a handcuff on the subjects right wrist that Agent Miller has been attempting to secure the entire time and we connected the two pairs of hand cuffs together. The subject although loosely handcuffed continued to try and grab at myself and Agent Miller and move away from us on the ground. Shortly there after I was struck with what felt to be a hand in the back of my head I was unable to see who done this as there were a lot of individuals screaming at us and taking videos. I then heard an individual who kept saying a name and I asked the individual what his name was and he stated it is Martese but he goes by Tese. I then tried to calm him by speaking to him more directly calling him by his name. Soon there after the jail transport, ambulance was on scene I explained to Tese we were going to get him up off the ground so we could check his head out. Tese seemed to have calmed down and listened to my instruction on how we were going to roll him to his rear place his foot under him and stand. Once standing Tese then began shouting racial comments and wasn't happy cause the first aid workers were also white. Tese then seen that there was EMT who appeared Indian in which he stated "Look what they did to me, you understand were both minority." I continued to try and speak to Tese to have a seat so they could look at him it took several minutes for him to sit down before he was eventually transported to UVA medical. I also responded to UVA medical where I began having pain in my right elbow it was x-rayed and checked out by doctors and cleared. Nothing else follows.

Index Id: 918

Date of Info: 03/18/2015

Person Name: Johnson, Martese Rashaad

Title:

Sex: Male Race: Black Or African

Ethnicity: Non-Hispanic Origin

DOB: [REDACTED] 1994

Age: 20

SSN:

DL #:

[REDACTED]

DL State: IL

Physical Descriptions

Ht	Wt	Eye Color	Hair Color	Hair Style	Facial Hair	Hair Length	Build	Skin Color	Age	Date of Info
507	165	Brown	Black	Flattop	None	Short	Medium	Medium Brown		03/18/2015

Addresses

Address	Occupied	Type	Official	Date of Info
[REDACTED]		Residence	N	03/18/2015

Identification

ID Number	ID Type	Class	State	Country	Issued	Expires	Date of Info
[REDACTED]	OLN		Illinois				03/18/2015

Incidents By Involvement Role	
Arrestee	1
Offender	1
Victim	0
Other	0

Incidents By Status	
Approved Report	1

Offenses By Category	
Society	2
Person	1
Drug	0
Property	0
Vehicle	0

Involved Incidents

Report #: 15-01462

Agency: Charlottesville Regional Office

Status: Approved
Report

Report Date: 03/18/2015

Offense(s): 18.2-460(A) : Obstruct Justice: W/O Threats/Force : M ; 18.2-388 :
Profane Swearing Or Intoxication In Public : M :

Role(s): Arrestee, Suspect / Offender

Summary: Arrest for Drunk in Public and Obstruction of Justice

EB-03
11/07/13

VIRGINIA DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
BUREAU OF LAW ENFORCEMENT

Response to Active Resistance

To be completed by the agent responding to active resistance.

This form is administrative in nature, and its purpose is to provide administrative information to the Deputy Director. It is the policy of the Enforcement Bureau, pursuant to Garrity v. New Jersey, 385 U.S. 493 (1967) and related cases, that any admission made by you on this form will not be used against you in a subsequent criminal proceeding, and that this form will not be provided to any prosecutor who is conducting a criminal investigation of your involvement in this incident, unless you choose to waive your rights under the 5th Amendment and allow this information to be so used.

INCIDENT INFORMATION

1. Date of this report 3-18-15 2. Date of incident 3-18-15 3. Time of incident 0045
4. Location of incident 1505 University Ave, Charlottesville, Va 22903
5. IBR number 15-1462
6. Response Physical ☒ Individual OC canister ☐ Baton ☐ Firearm ☐
used by Agent
- (a) If Physical: Restraint (minor) ☐ Restraint (move and hold) ☐ Struggle ☒ Physical Strike ☐
7. Level of resistance by Offender: Failed to Comply ☒ Physical attack on agent – Struggle ☒
Physical attack on agent – Strikes ☐ Physical attack on agent – Weapons ☐
Physical attack on agent – Lethal Force ☐
8. At the time of the incident, was the agent in uniform or plainclothes? Uniform
9. List name and code numbers of all agents present at the time the response to active resistance was used Agent Custer BC921, Agent Miller BC922, Agent Cielakie BC924
10. List names, addresses, phone numbers of any witnesses City of Charlottesville Fire Marshall: [REDACTED]

AGENT INFORMATION

11. Name Thomas S Custer 12. Rank Special Agent 13. Code 1446
14. Where assigned Region 9 15. Phone # [REDACTED]
16. Race White 17. Sex Male 18. Date of birth [REDACTED]/1975
19. Date of employment 4-10-13
20. Total years of education 13
21. Was the agent injured? Yes 22. If yes, type of injuries Injury to right elbow, scuffs to both knees

23. Name of hospital UVA Medical Center

24. Type of treatment Emergency room, xrays

SUBJECT INFORMATION

25. Name Johnson, Martese

26. Address [REDACTED]

27. Race Black

28. Sex Male

29. Date of birth [REDACTED] 1994

30. Social security # [REDACTED]

31. Work phone _____

32. Home phone _____

33. Did subject complain of injury? [REDACTED]

34. Were there visible signs of injury? [REDACTED]

35. If yes, type of injuries [REDACTED]

Note: Subject must be offered medical treatment for any complaint of injury.

36. Type of treatment [REDACTED]

37. Name of hospital [REDACTED]

38. How transported to hospital [REDACTED]

39. Name of doctor [REDACTED]

40. Time of treatment [REDACTED]

41. Time of release [REDACTED]

42. Was subject under the influence of alcohol? [REDACTED]

Drugs? [REDACTED]

43. Photos attached? _____

If no, explain: _____

44. Was suspect arrested? [REDACTED]

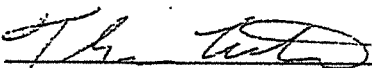
If yes, list charges. If no, explain: Drunk in public, obstruction of justice

45. Damage to Private Property No If yes, informational memo attached

INCIDENT DESCRIPTION

45. Describe, in detail, your actions, the actions of any other involved agents, and the actions and conduct of the subject(s) before, during and after the response to active resistance. Include whether the use of each type of response was effective. On March 17th 2015 While working in the Charlottesville Va area in uniform displaying my badge of authority Agents Custer, Agent Miller and Agent Cielakie had been assisting the Fire Marshall outside Trinity Irish Pub. While observing the line to enter the establishment I observed several individuals pushing each other in the crowd causing the barrier to push out into the sidewalk walkway. I also observed several individuals climb over the barrier in order to not be pressed up against the barrier. I then observed an employee who I was later told is an owner receive an Id from and young black male who was in the line to enter the establishment. I then observed the same employee/owner look at the id and appear to be pointing at the id and then placing it in his right hand and holding it straight out toward the exit of the waiting area. I then noticed at that time Agent Miller walk toward the employee and the subject. I observed Agent Miller speak to the subject and the subject continue to take another step away from Agent Miller. I observed Agent Miller then reach out toward the subject in another attempt to speak to him and ask for his Id, the subject withdrew his arm and turn his body in what appeared to be as in to move away from him. I then took approximately two steps forward and facing the subject I stated the

Police officer behind you is trying to talk to you. The subject looked up at me and I observed that his eyes appeared glassy. Then the subject attempted to turn away from me and as he did I reached out toward his left arm in an attempt to assist Agent Miller with stopping the individual so he could conduct his investigation. As I placed my hand on the subjects left arm the subject then pulled away and attempted to move away. I then grabbed the subjects left wrist and stated stop Police. Immediately the subject attempted to pull away and spin from my grip quickly I found myself along with the subject falling to the ground landing on my right elbow and the subject struck his head on the sidewalk. I immediately stated police stop resisting as the subject continued to pull away and kick trying to break my grip. I continued to repeat to the subject police stop resisting as I pulled my handcuffs from my belt I was able to secure his left arm in one handcuff and as I attempted to place the right wrist of the subject in the handcuff he is able to grasp the cuff pinching my right hand in the chain links of the handcuffs. The subject continually attempts to turn over, makes several accusations racially I continue to tell the subject to stop resisting arrest that its over and we have an ambulance in route to check him out. I then observe Agent Cielakie walk closer and place a handcuff on the subjects right wrist that Agent Miller has been attempting to secure the entire time and we connected the two pairs of hand cuffs together. The subject although loosely handcuffed continued to try and grab at myself and Agent Miller and move away from us on the ground. Shortly there after I was struck with what felt to be a hand in the back of my head I was unable to see who done this as there were a lot of individuals screaming at us and taking videos. I then heard an individual who kept saying a name and I asked the individual what his name was and he stated it is Martese but he goes by tese. I then tried to calm him by speaking to him more directly calling him by his name. Soon there after the jail transport, ambulance was on scene I explained to Tese we were going to get him up off the ground so we could check his head out. Tese seemed to have calmed down and listened to my instruction on how we were going to roll him to his rear place his foot under him and stand. Once standing Tese then began shouting racial comments and wasn't happy cause the first aid workers were also white. Tese then seen that there was emt who appeared Indian in which he stated "Look what they did to me, you understand were both minority." I continued to try and speak to Tese to have a seat so they could look at him it took several minutes for him to sit down before he was eventually transported to UVA medical. I also responded to UVA medical where I began having pain in my right elbow it was xrayed and checked out by doctors and cleared. Nothing else follows.

46. Agent's signature  1446

Date: 3-18-15

SUPERVISOR'S RESPONSIBILITIES

Note: If a complaint of excessive use of force was made, an initial complaint package must be compiled.

I have reviewed this response to active resistance, and have determined that:

- ☒ it is within the policy guidelines--OR--☐ it is NOT within the policy guidelines
☐ lesser force alternatives WOULD NOT HAVE BEEN EFFECTIVE--OR--☐ lesser force alternatives WOULD HAVE BEEN EFFECTIVE
☒ training and proper tactics were followed--OR--☐ training and proper tactics were NOT followed

I recommend that this use of force be classified:

- ☒ JUSTIFIED
☐ JUSTIFIED -- but other policy violations noted
☐ JUSTIFIED -- but tactical or procedural improvement opportunities noted
☐ NOT JUSTIFIED -- not excessive force, but avoidable through better tactics or de-escalation
☐ NOT JUSTIFIED -- EXCESSIVE FORCE

REASONS FOR ABOVE RECOMMENDATIONS: SA Miller was conducting an investigation to determine if the suspect was in the possession of a fake ID and the suspect failed to comply with verbal commands to stop and present his ID. SA Miller continued to give verbal commands to the suspect prior to placing his hands on him in an attempt to gain control. SA Custer got involved to assist SA Miller in trying to get the suspect to comply. A struggle ensued and they all fell to the ground with the suspect hitting his head on the sidewalk. They ultimately gain control of the suspect, placed him in hand cuffs and he was later transported to UVA Emergency Room.

Supervisor's name Joseph L. Cannon

Supervisor's code # 1312

Supervisor's signature [Signature]

Date: 03/18/2015

Supervisor's assignment Charlottesville # 9

Telephone # [Redacted]

DEPUTY DIRECTOR REVIEW: I CONCUR ☐ I DO NOT CONCUR (EXPLANATION ATTACHED) ☐

Name: _____

Code # _____

Signature: _____

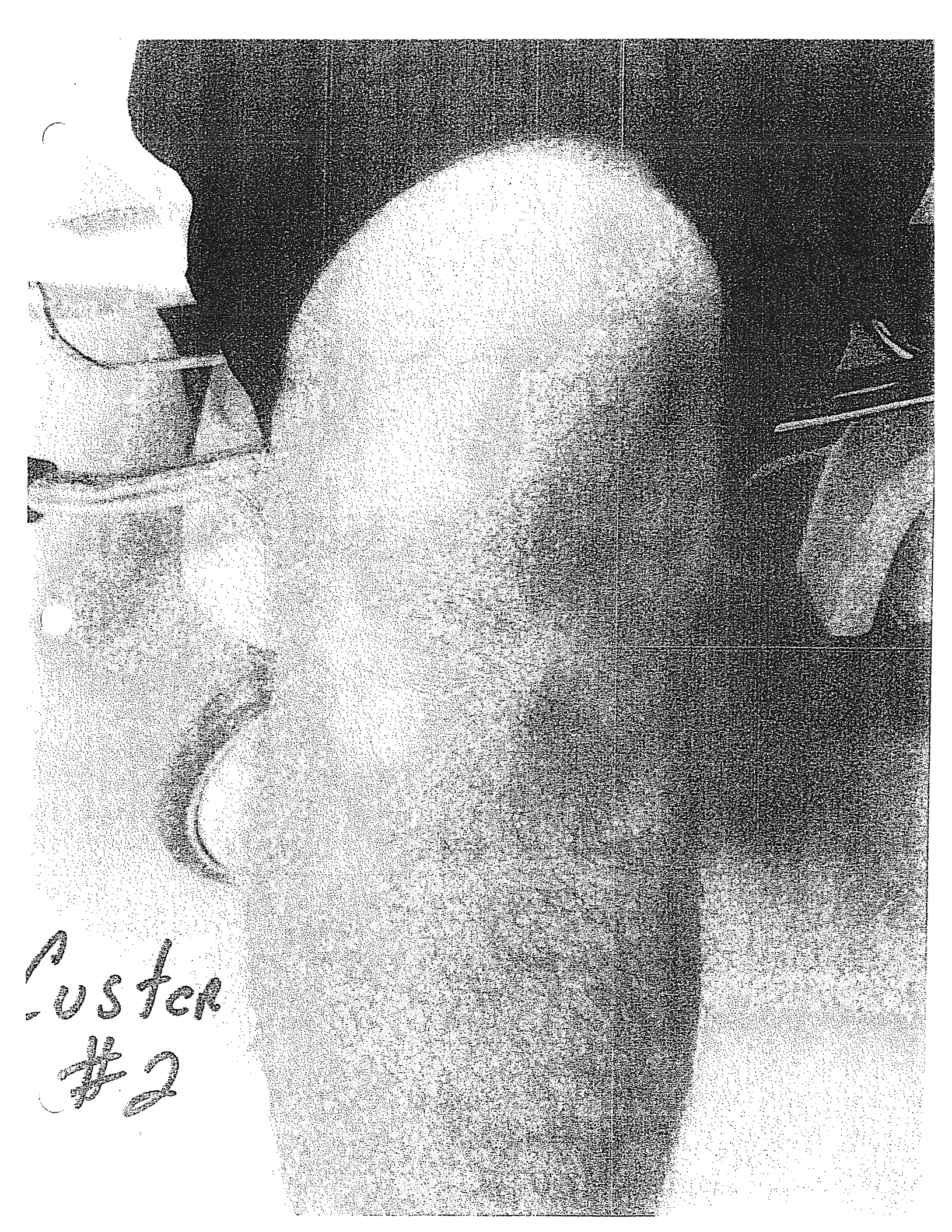
Date: _____

Distribution

Original - Through channels to the Deputy Director.
Copy - SAC Training Section
Copy - SAC Regional Office
Copy - Office of Professional Standards

Cluster
#1





Custer
#2

Custel
#3

EB-03
11/07/13

VIRGINIA DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
BUREAU OF LAW ENFORCEMENT

Response to Active Resistance

To be completed by the agent responding to active resistance.

This form is administrative in nature, and its purpose is to provide administrative information to the Deputy Director. It is the policy of the Enforcement Bureau, pursuant to Garrity v. New Jersey, 385 U.S. 493 (1967) and related cases, that any admission made by you on this form will not be used against you in a subsequent criminal proceeding, and that this form will not be provided to any prosecutor who is conducting a criminal investigation of your involvement in this incident, unless you choose to waive your rights under the 5th Amendment and allow this information to be so used.

INCIDENT INFORMATION

1. Date of this report 3/18/15 2. Date of incident 3/18/15 3. Time of incident 0045
4. Location of incident 1505 University Ave, Charlottesville, VA 22903
5. IBR number 15-1462
6. Response Physical ☒ Individual OC canister ☐ Baton ☐ Firearm ☐
Used by Agent
- (a) If Physical: Restraint (minor) ☐ Restraint (move and hold) ☐ Struggle ☒ Physical Strike ☐
7. Level of resistance by Offender: Failed to Comply ☐ Physical attack on agent – Struggle ☒
Physical attack on agent – Strikes ☐ Physical attack on agent – Weapons ☐
Physical attack on agent – Lethal Force ☐
8. At the time of the incident, was the agent in uniform or plainclothes? Uniform
9. List name and code numbers of all agents present at the time the response to active resistance was used SA Jared Miller #1451, SA T. Shawn Custer #1446, SA J. Sam Cielakie #1431
10. List names, addresses, phone numbers of any witnesses
City Of Charlottesville Fire Marshall (unknown name)
Owner of Trinity Irish Pub-

AGENT INFORMATION

11. Name Jared B. Miller 12. Rank Special Agent 13. Code 1451
14. Where assigned Region 9 15. Phone # [REDACTED]
16. Race White 17. Sex Male 18. Date of birth [REDACTED] 87
19. Date of employment 4/10/13
20. Total years of education 16
21. Was the agent injured? Yes 22. If yes, type of injuries Minor scratches
23. Name of hospital None needed 24. Type of treatment None

SUBJECT INFORMATION

25. Name Martese Rashaad Johnson 26. Address [REDACTED]
27. Race Black 28. Sex Male 29. Date of birth [REDACTED]/94
30. Social security # [REDACTED]
31. Work phone [REDACTED] 32. Home phone [REDACTED]
33. Did subject complain of injury? [REDACTED] 34. Were there visible signs of injury? [REDACTED]
35. If yes, type of injuries [REDACTED]
Note: Subject must be offered medical treatment for any complaint of injury.
36. Type of treatment [REDACTED]
37. Name of hospital [REDACTED] 38. How transported to hospital [REDACTED]
39. Name of doctor [REDACTED]
40. Time of treatment [REDACTED] 41. Time of release [REDACTED]
42. Was subject under the influence of alcohol? [REDACTED] Drugs? [REDACTED]
3. Photos attached? Yes [REDACTED] If no, explain: [REDACTED]
44. Was suspect arrested? Yes [REDACTED] If yes, list charges. If no, explain: [REDACTED]
 18.2-460; 18.2-388
45. Damage to Private Property No If yes, informational memo attached [REDACTED]

INCIDENT DESCRIPTION

45. Describe, in detail, your actions, the actions of any other involved agents, and the actions and conduct of the subject(s) before, during and after the response to active resistance. Include whether the use of each type of response was effective.

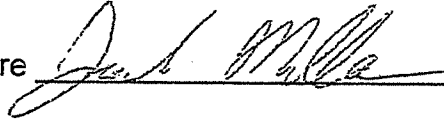
On 3/18/2015, around 12:45 AM, I was standing outside 1505 University Avenue (Trinity Irish Pub) with Special Agents Custer and Cielakie, as well as the City of Charlottesville Fire Marshall. All Special Agents of Virginia ABC were in full uniform, displaying a badge of authority. I was watching the bouncers, as well as [REDACTED] (owner of Trinity Irish Pub), check IDs at the door. During one such interaction, I saw [REDACTED] look at a male's ID (later identified as Martese Johnson), and then give him his ID back and send him away. As Johnson turned to walk away, I approached him and identified myself as a police officer, then asked to see his ID. I could see that he had bloodshot/glassy eyes. Johnson said something that I couldn't understand, then begin walking away in a Northwest direction, towards The College Inn.

At that time, I placed my right hand on Johnson's left elbow and told him to stop and show me his ID. He shrugged his right arm away from me and continued walking. Then, I grabbed his arm and again told him to stop because I needed to check his ID. When I grabbed his arm, he pulled away again, and as he did so, his coat began to come off. At the same time, Johnson began walking faster. This gave me the impression that he may attempt to flee. At the same time this was occurring, Special Agent Custer grabbed his left arm and told him to stop. I saw Johnson attempt to pull away from SA Custer as well. Based on Johnson's actions, SA Custer and I attempted to take Johnson to the ground. Johnson began actively resisting, to the point that I started to lose me grip on his arm. Before we could safely escort Johnson to the ground, the struggle caused all three of us to fall to the ground. Once on the ground, I began telling Johnson to stop resisting and to put his hands behind his back. Johnson ignored my commands and continued to try to pull away and get back on his feet. At this time, I could see that Johnson had a laceration on his forehead. Eventually, myself and SA Custer were able to place Johnson in handcuffs. Johnson, however, continued to try to pull away from us and get back on his feet. I placed my knees over his legs in an attempt to stop this, however he continued to try to kick his legs out from my control. Finally, we

From the time we went to the ground, throughout the entire incident, Johnson was screaming things at us, although I do not recall any specific statements. While we were trying to secure Johnson, I could smell the strong odor of an alcoholic beverage, coming from his person. Eventually, we were able to get Johnson to stop resisting enough that we could get him on his feet to be checked out by the EMTs. I rode with Johnson to the hospital, [REDACTED] [REDACTED]

I obtained a warrant for Obstruction of Justice (18.2-460) and Drunk in Public (18.2-388). More charges may be filed, pending consultation with the Commonwealth's Attorney.

46. Agent's signature



Date: 3/18/15

SUPERVISOR'S RESPONSIBILITIES

Note: If a complaint of excessive use of force was made, an initial complaint package must be compiled.

I have reviewed this response to active resistance, and have determined that:

- ☒ it is within the policy guidelines--OR--☐ it is NOT within the policy guidelines
☐ lesser force alternatives WOULD NOT HAVE BEEN EFFECTIVE--OR--☐ lesser force alternatives WOULD HAVE BEEN EFFECTIVE
☒ training and proper tactics were followed--OR--☐ training and proper tactics were NOT followed

I recommend that this use of force be classified:

- ☐ JUSTIFIED
☐ JUSTIFIED -- but other policy violations noted
☐ JUSTIFIED -- but tactical or procedural improvement opportunities noted
☐ NOT JUSTIFIED -- not excessive force, but avoidable through better tactics or de-escalation
☐ NOT JUSTIFIED -- EXCESSIVE FORCE

REASONS FOR ABOVE RECOMMENDATIONS: SA Miller was conducting an investigation to determine if the suspect was in the possession of a fake ID and the suspect failed to comply with verbal commands to stop and present his ID. SA Miller continued to give verbal commands to the suspect prior to placing his hands on him in an attempt to gain control. SA Custer got involved to assist SA Miller in trying to get the suspect to comply. A struggle ensued and they all fell to the ground with the suspect hitting his head on the sidewalk. They ultimately gain control of the suspect, placed him in hand cuffs and he was later transported to UVA Emergency Room.

Supervisor's name Joseph L. Cannon

Supervisor's code # 1312

Supervisor's signature [Signature]

Date: 03/18/2015

Supervisor's assignment Charlottesville # 9

Telephone # [Redacted]

DEPUTY DIRECTOR REVIEW: I CONCUR ☐ I DO NOT CONCUR (EXPLANATION ATTACHED) ☐

Name: _____ Code # _____

Signature: _____ Date: _____

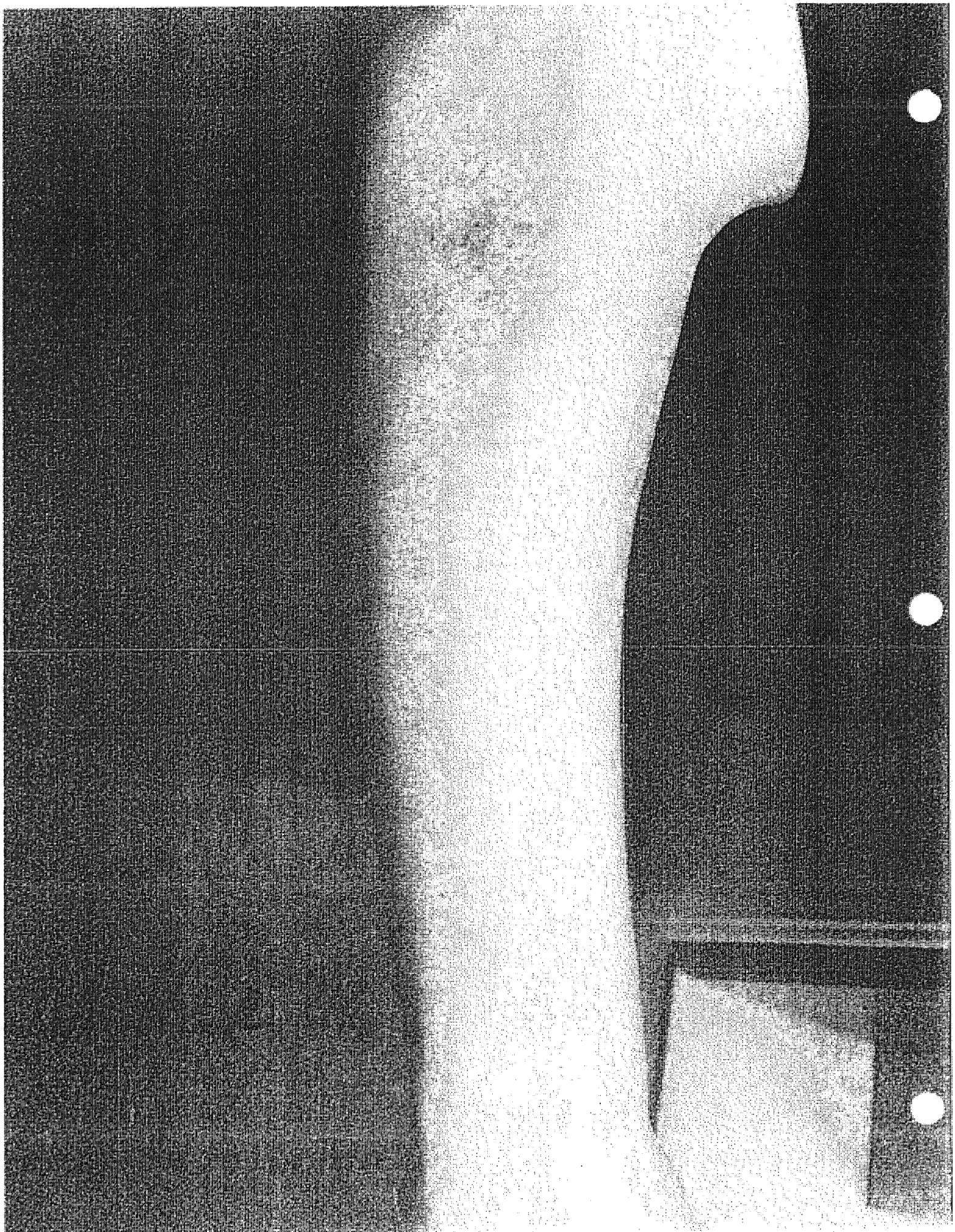
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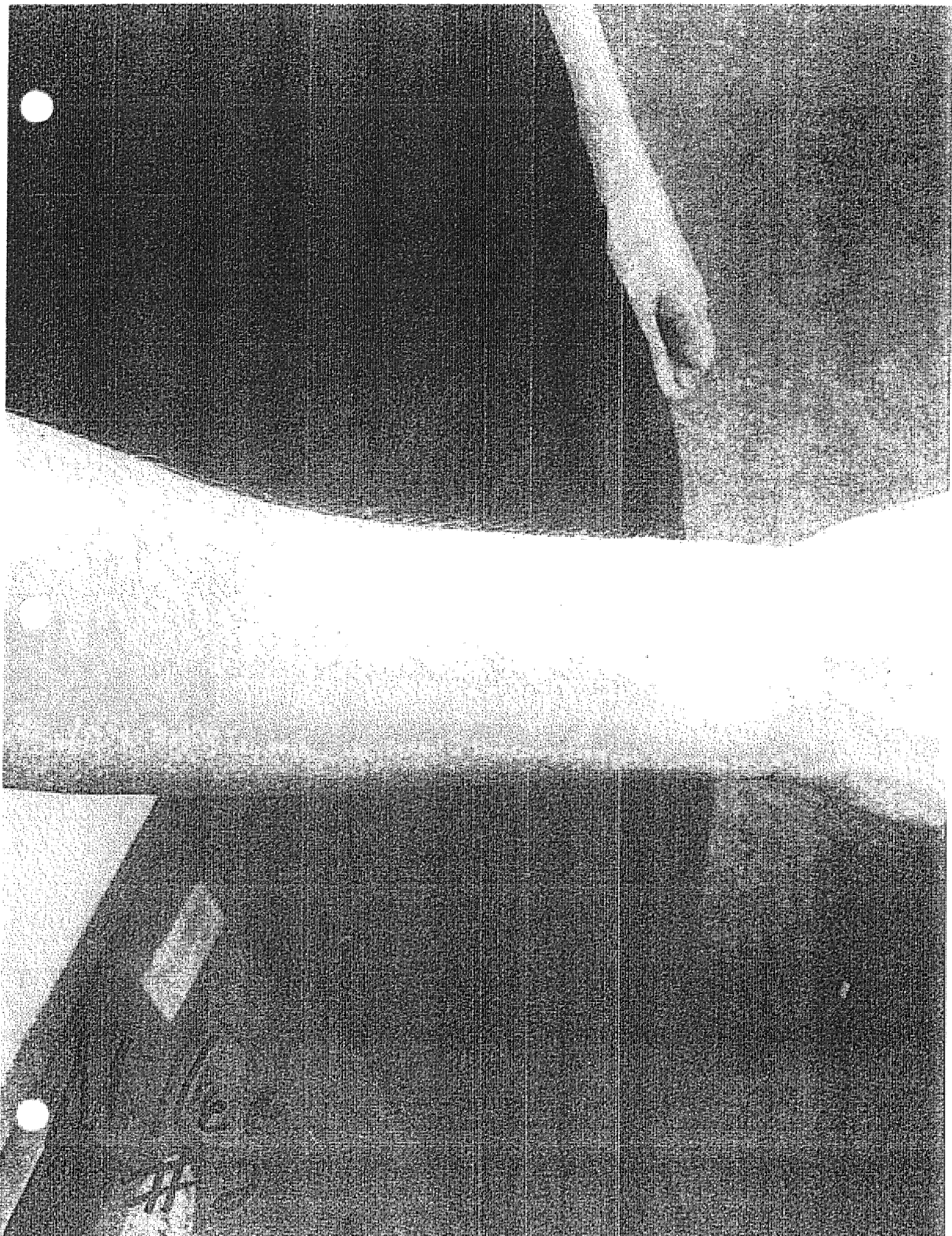
Original - Through channels to the Deputy Director.

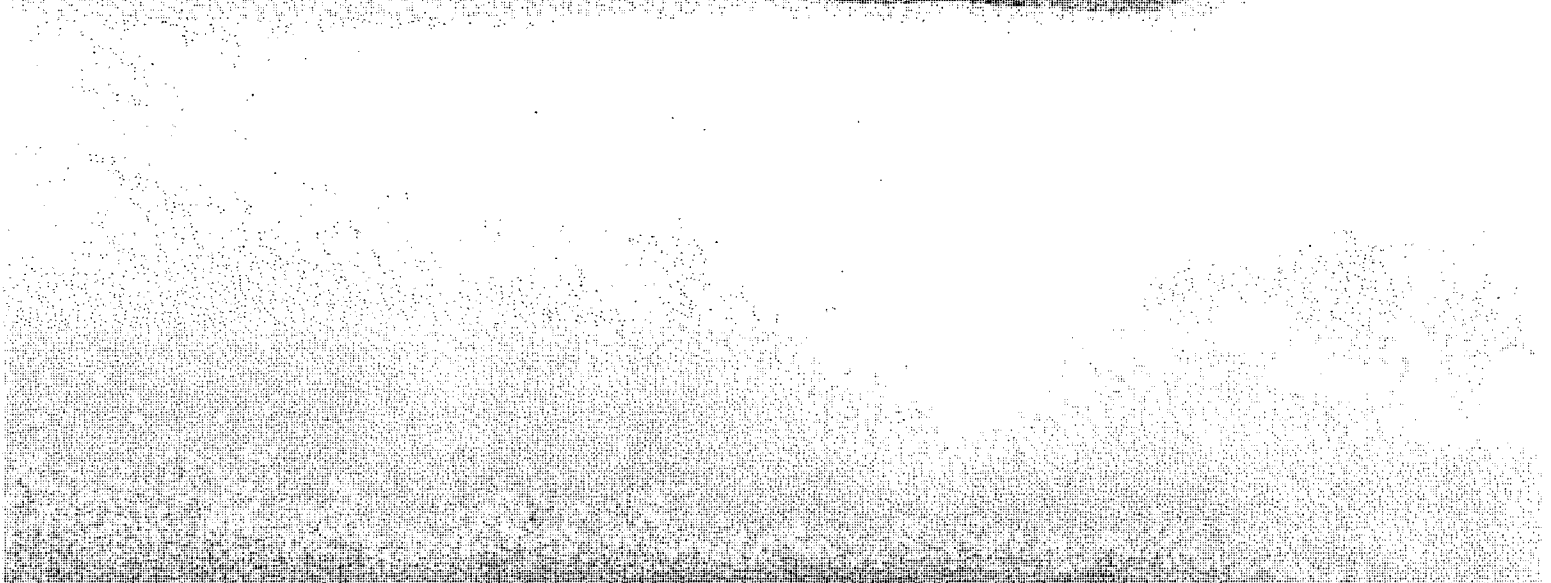
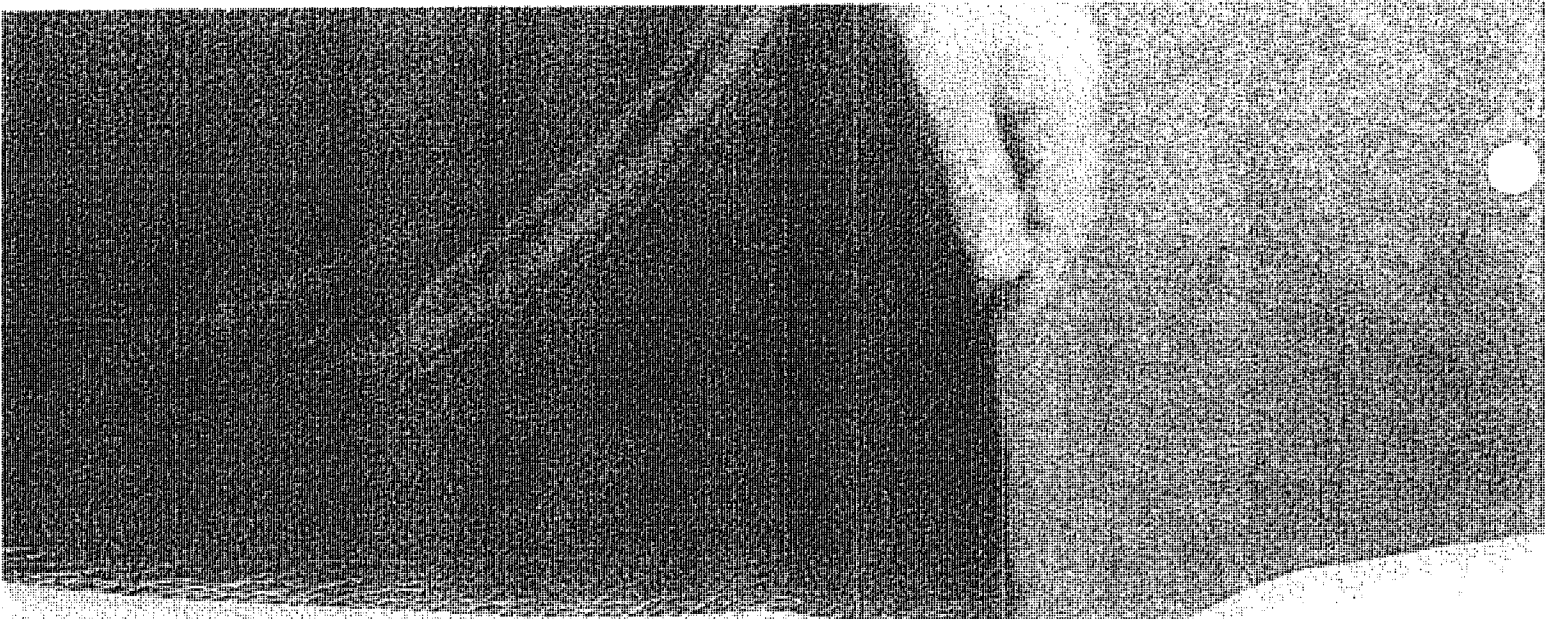
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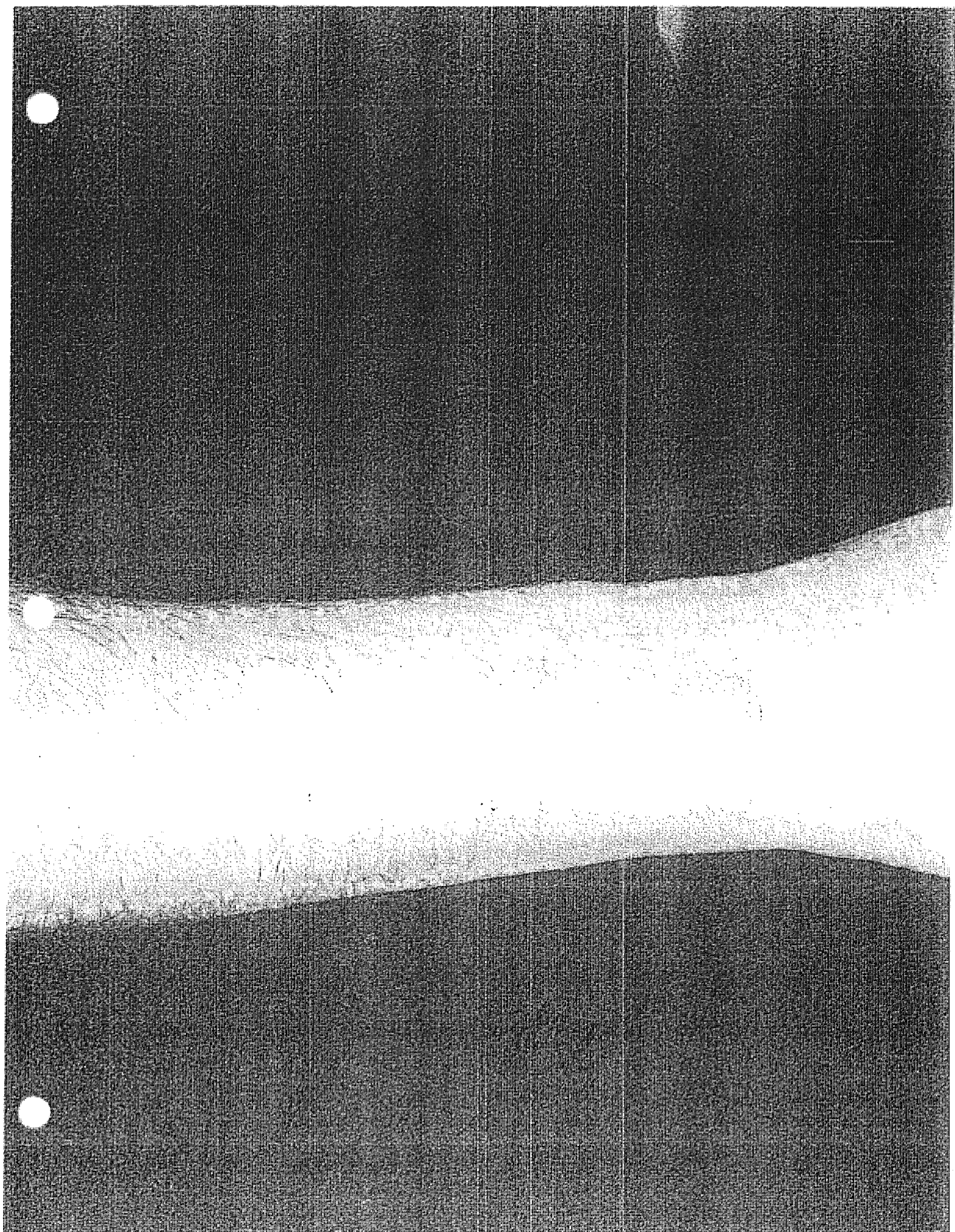
Copy - SAC Regional Office

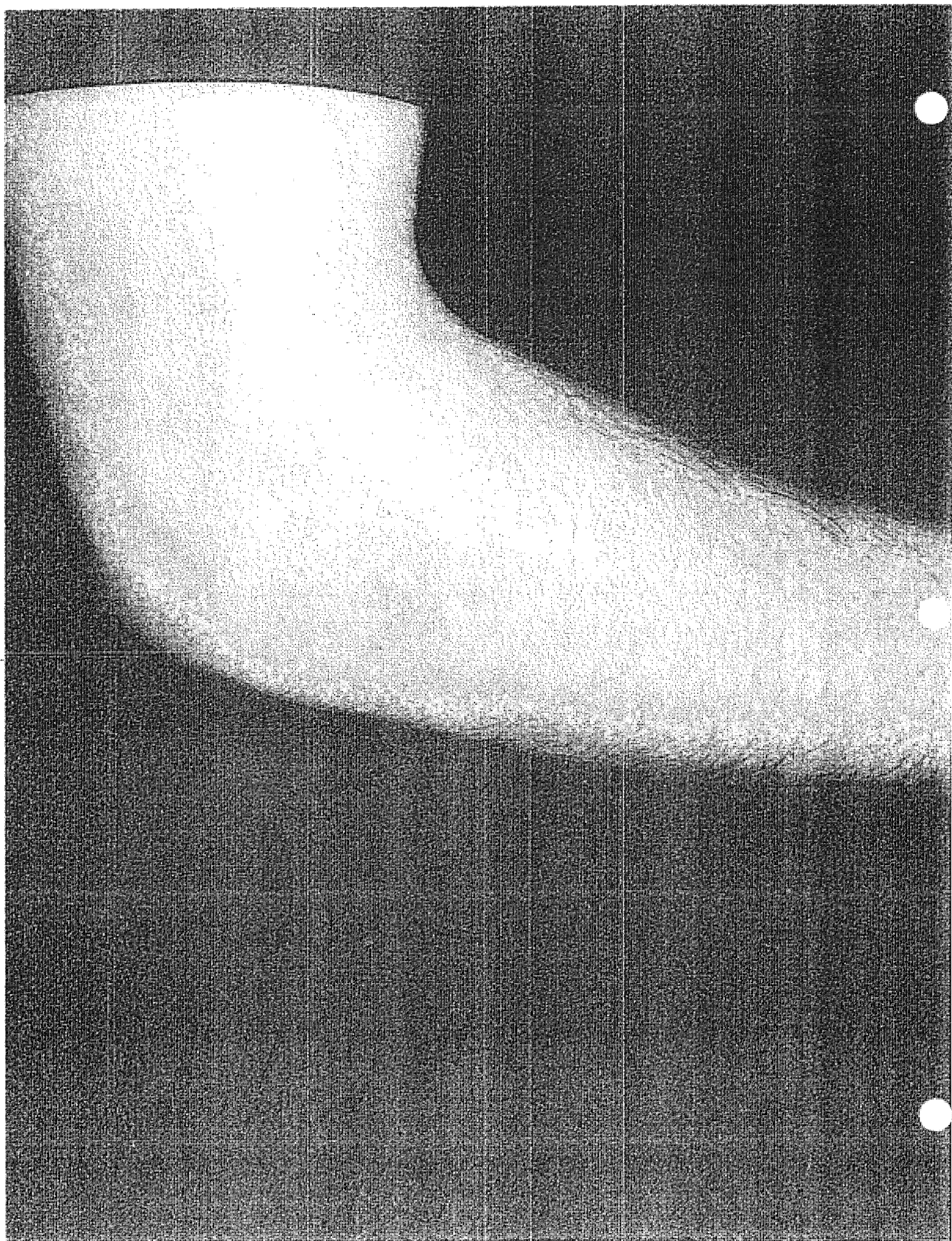
Copy - Office of Professional Standards

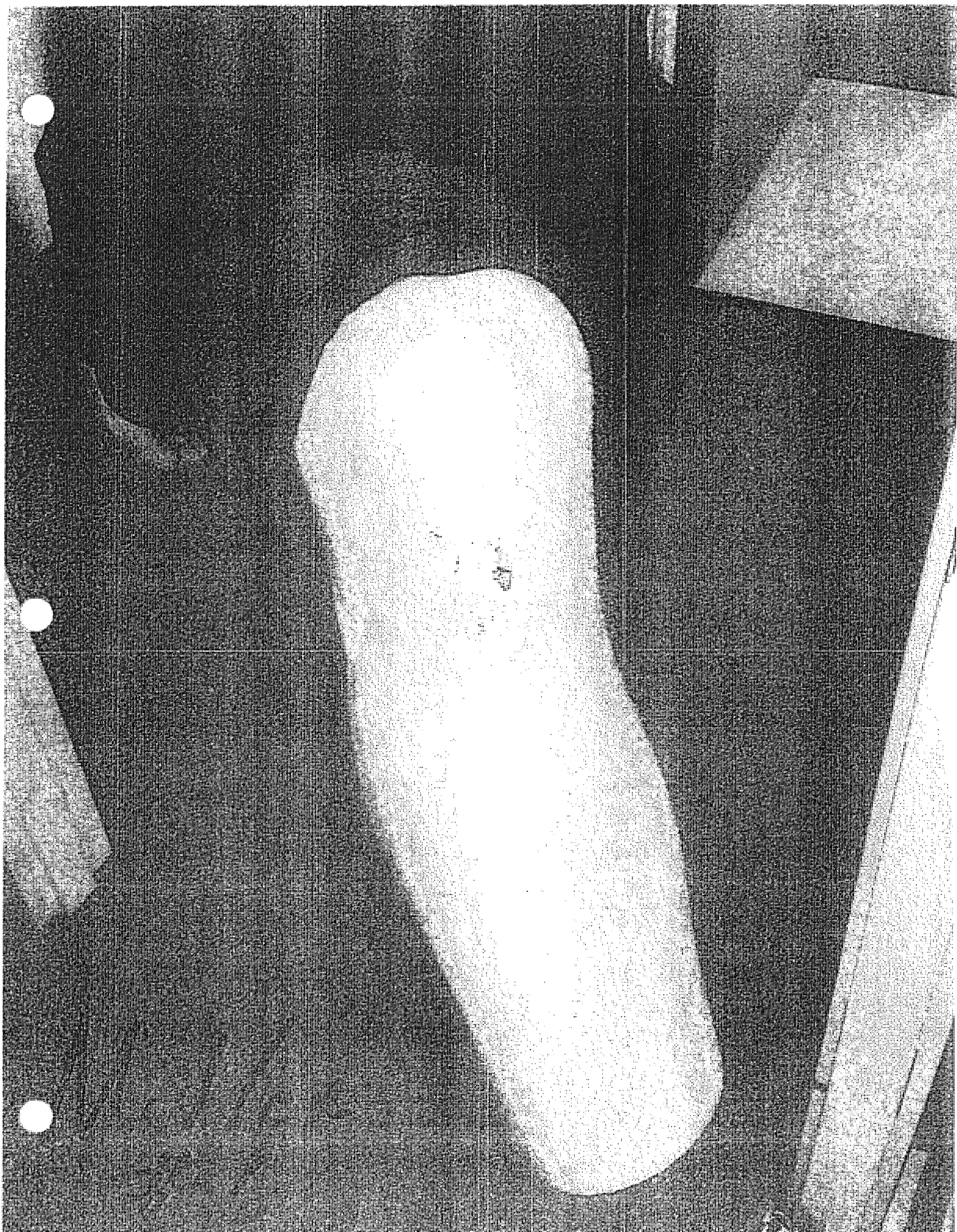




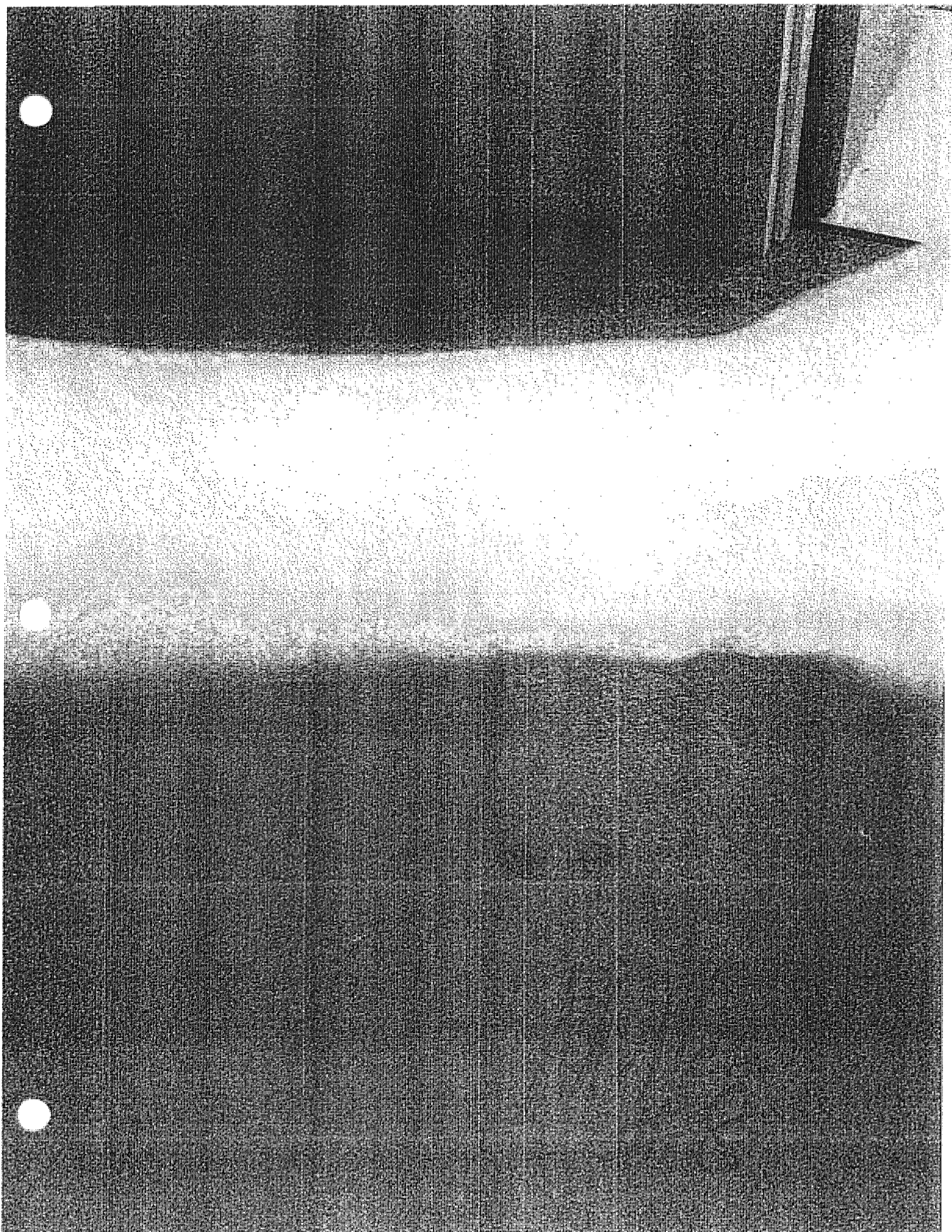


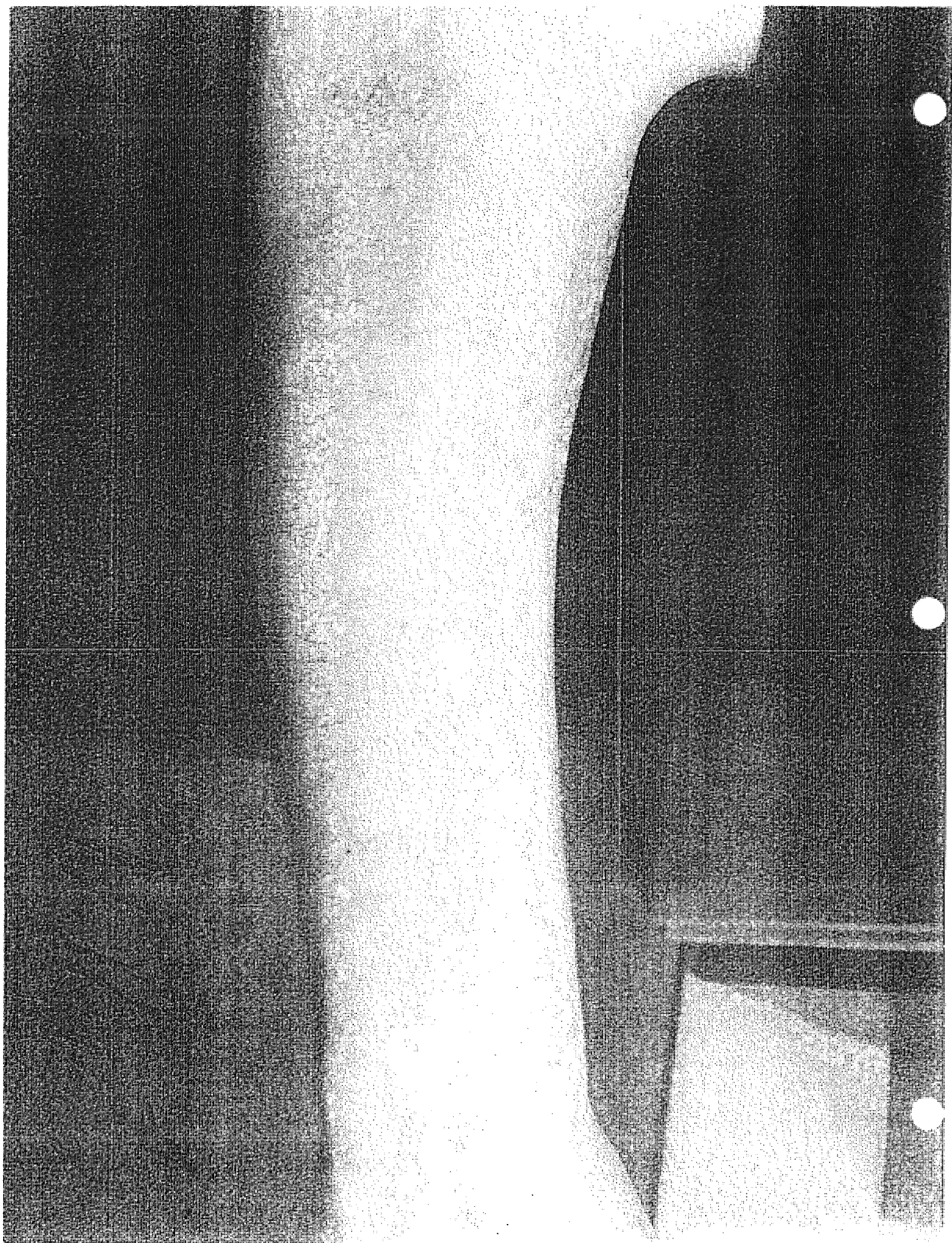






Miller #7







VIRGINIA ALCOHOLIC BEVERAGE CONTROL
BUREAU OF LAW ENFORCEMENT

TO: Shawn P Walker
Director

DATE: March 31, 2015

FROM: Ryan Porter,
Special Agent in charge, Office of Professional Standards

SUBJECT: Internal Affairs Complaints and Training Documentation

The Office of Professional Standards has no internal files related to the Response to active resistance pertaining to Agents Jared Miller and Thomas Custer. Agent John Cielakie has one which is under court seal. The training history for each Agent prior to their employment at Virginia Department for Alcoholic Beverage Control is as follows:

Jared Miller

Attended Central Shenandoah CJTA for basic – 09/03/2009 7 & in-service training – 04/04/2011

Central Shenandoah Criminal Justice Training Academy –
3045 Lee Hwy
Weyers Cave VA 24486
Contact Jean Fiske – 540-234-9191 ext. 5

Employed at Charlottesville PD from 04/18/2009 – 04/11/2013
Joined Alcoholic Beverage Control – 04/10/2013

Thomas Custer

Attended Central Shenandoah Criminal Justice Training Academy basic – 04/16/2008
Attended in-service CSCJTA – 02/28/2010 & 11/04/2011

Central Shenandoah Criminal Justice Training Academy
3045 Lee Hwy
Weyers Cave VA 24486
Contact Jean Fiske – 540-234-9191 ext. 5

Employed at Louisa County Sheriff's Office – 09/13/2007 – 04/09/2013
Joined Alcoholic Beverage Control – 04/10/2013

John Cielakie

Attended Central Virginia Criminal Justice Training Academy – Basic – 12/18/2000

ATTACHMENT No. 3

Attended Northern Virginia Criminal Justice Training Academy – in/service – 10/19/2001
Attended Rappahannock Criminal Justice Training Academy for in/service: 05/16/2003, 12/04/2003,
08/04/2005, 08/25/2005, 1/11/2008 & 12/31/2010

Central Virginia Criminal Justice Training Academy
1200 Church Street
Lynchburg VA 24504
Contact: Ron Staton – 434-455-6190

Northern Virginia Criminal Justice Training Academy
45299 Research Place
Ashburn VA 20147
Contact: Mary Ann Pendrell – 703-729-4299 ext. 301

Rappahannock Regional Criminal Justice Academy
2275 E 3rd Street
Middletown VA 22645
Contact: Tom Einwechter – 540-868-1360

Employed at Spotsylvania County Police Department – 04/01/2002 – 08/31/2012
Joined Alcoholic Beverage Control: 08/10/2012

NOTE: All three agents participated in ABC Fall 2013 in-service training that is described in the included training summaries as 2013 Inservice / Force on Force/ Contact and Cover. This training incorporated scenarios designed based on our mission and all emphasized de-escalation/disengagement tactics and strategies.

TRAINING HISTORY - SUMMARY Virginia ABC Training Academy

3/24/2015 11:02:34 AM

ROUTING: Region 9 - Charlottesville
Regional Office

Cielakie, John S

ACE ID: 1483

Employing Agency: Va. Alcohol Beverage Control PD

Badge:

Employment Status: Active

Licensing State: VA

License Number

CAREER TOTALS

Legal	CD	Culture	ClassTotal
17.5	140.5	5	171

FUNCTIONS

Current hours that apply to each function.

Primary/Secondary	Due Date	Legal	CD	Culture
1	12/31/2016	0	10	0

CLASSES

	Class #	Start Date	Comp. Date	Legal	CD	Culture	Class Total	Credited	F41
On-Line Speed Measurement Instructor Re-Certification	2875	1/1/2015	3/9/2015	0	2	0	2	Y	0 Satisfactorily completed
RMS Interact Training	2863	2/18/2015	2/18/2015	0	8	0	8	Y	0 Satisfactorily completed
Media Training	2748	10/24/2014	10/22/2014	0	16	0	16	Y	0 Satisfactorily completed
2014 Fall Firearms Qualification	2817	10/20/2014	10/20/2014	0	4	0	4	Y	0 Satisfactorily completed
2014 NLEA Training Academy	2780	7/21/2014	7/25/2014	1	23.5	1	25.5	Y	0 Satisfactorily completed
Blood Borne Pathogens for Law Enforcement On-Line Class	2769	7/1/2014	7/18/2014	0	2	0	2	Y	680 Satisfactorily completed
2014 Legal Update On-Line Class	2770	7/1/2014	7/17/2014	4	0	0	4	Y	0 Satisfactorily completed
General Instructor Re-Certification On-Line Class	2771	7/1/2014	7/2/2014	0	2	0	2	Y	0 Satisfactorily completed
Narcotics Field Test Kit - On-Line through Knowledge Center	2757	5/19/2014	6/19/2014	0	0	0	0	Y	0 Satisfactorily completed
Cultural Diversity On-Line Class	2734	4/1/2014	6/3/2014	0	0	2	2	Y	0 Satisfactorily completed
1st Aide / CPR / AED Training	2753	5/29/2014	5/29/2014	0	5.5	0	5.5	Y	0 Satisfactorily completed
Defensive Driving Instructor Re-Certification On-Line Class	2718	1/1/2014	1/23/2014	0	2	0	2	Y	0 Satisfactorily completed
2013 In-Service Training / Force on Force/ Contact and Cover	2681	11/5/2013	11/7/2013	4	16	0	20	Y	0 Satisfactorily completed
Legal Update 2013 On-Line Class	2669	7/1/2013	8/1/2013	4	0	0	4	Y	0 Satisfactorily completed
General Instructor Re-Certification On-Line Class	2650	7/1/2013	7/23/2013	0	2	0	2	Y	0 Satisfactorily completed

Cielakie, John S

TRAINING HISTORY - SUMMARY Virginia ABC Training Academy

3/24/2015 11:02:34 AM

ROUTING: Region 9 - Charlottesville
Regional Office

Inbox EC / IR II Recertification	2660	7/9/2013	7/9/2013	0.5	3.5	0	4	Y	0	Satisfactorily completed
ABC Law Enforcement Training Academy In-Service Team "B"	2336	10/15/2012	10/18/2012	0	26	0	26	Y	0	Satisfactorily completed
New Agent Training	2504	8/10/2012	9/6/2012	4	36	0	40	Y	0	Satisfactorily completed
Cultural Diversity On-Line Class	2522	7/1/2012	9/4/2012	0	0	2	2	Y	589	Satisfactorily completed

F41 INFO

F41#	F41 Date		
680	7/21/2014	7/18/2014 Law Enforcement In-Service	Blood Borne Pathogens for Law Enforcement On-Line Class
659	2/6/2014	1/23/2014	Defensive Driving Instructor Re-Certification On-Line Class
642	8/5/2013	7/23/2013	General Instructor Re-Certification On-Line Class
589	9/24/2012	9/4/2012 Law Enforcement In-Service	Cultural Diversity On-Line Class

CERTIFICATIONS

	Cert. Date	Due Date
Speed Measurement Instructor	3/9/2015	12/31/2017
CPR	5/29/2014	5/29/2016
Driver Training	1/23/2014	12/31/2017
General	7/23/2013	12/31/2016

FIREARMS SCORES

Course of Fire	Date	Weapon	Serial Number	Model	Points Possible	1st Score	2nd Score	3rd Score	4th Score	Percent Score Pass	Dept. Issue
Tactical Qualification Co	10/20/2014	Shotgun	WG47206M	Remington	100	100	0	0		100.000%	<input checked="" type="checkbox"/>
Tactical Qualification Co	10/20/2014	On Duty	26-043587	H & K	100	100	0	0		100.000%	<input checked="" type="checkbox"/>
Tactical Qualification Co	10/20/2014	On Duty	26-043587	H & K	100	97.6	0	0		97.600%	<input checked="" type="checkbox"/>
Tactical Qualification Co	10/20/2014	Shotgun	WG47206M	Remington	100	100	0	0		100.000%	<input checked="" type="checkbox"/>
Tactical Qualification Co	5/7/2014	Off Duty	HIPJ3757	MIP Shield	100	96	0	0		96.000%	<input checked="" type="checkbox"/>
Tactical Qualification Co	5/7/2014	Off Duty	MDK324	Glock 23	100	96	0	0		96.000%	<input checked="" type="checkbox"/>
Tactical Qualification Co	5/7/2014	On Duty	26-043587	H & K	100	98.4	0	0		98.400%	<input checked="" type="checkbox"/>

Cielakite, John S

TRAINING HISTORY - SUMMARY Virginia ABC Training Academy

3/24/2015 11:02:34 AM

ROUTING: Region 9 - Charlottesville											
Regional Office											
Tactical Qualification Co	5/7/2014	On Duty	26-043587	H & K	100	100	0	0	100.000%	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Tactical Qualification Co	10/10/2013	Shotgun	WG47286M	Remington	0	0	0	0	0.000%	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Tactical Qualification Co	10/10/2013	Off Duty	UXK324	Glock 23	100	96.8	0	0	96.800%	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Tactical Qualification Co	10/10/2013	On Duty	26-043587	H & K	100	97.6	0	0	97.600%	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Tactical Qualification Co	10/10/2013	Shotgun	WG47286M	Remington	0	0	0	0	0.000%	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Tactical Qualification Co	10/10/2013	On Duty	26-043587	H & K	100	100	0	0	100.000%	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Tactical Qualification Co	5/23/2013	On Duty	26-043587	H & K	100	98.4	0	0	98.400%	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Tactical Qualification Co	10/16/2012	On Duty	26043587	H & K	100	95.2	0	0	95.200%	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Tactical Qualification Co	10/16/2012	Shotgun	WG47296m	Remington	0	0	0	0	0.000%	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Tactical Qualification Co	8/14/2012	Shotgun	WG47286M	Remington	0	0	0	0	0.000%	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Tactical Qualification Co	8/14/2012	On Duty	26-043587	H & K	100	96	0	0	96.000%	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Tactical Qualification Co	8/14/2012	On Duty	26-043587	H & K	100	94.8	0	0	94.800%	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

TRAINING HISTORY - SUMMARY Virginia ABC Training Academy

3/24/2015 11:03:03 AM

ROUTING: Region 9 - Charlottesville
Regional Office

Custer, Thomas S

ACE ID: 1495

Employing Agency: Va. Alcohol Beverage Control PD

Badge:

Employment Status: Active

Licensing State: VA

License Number

CAREER TOTALS

Legal	CD	Culture	ClassTotal
16	113.5	4	133.5

FUNCTIONS

Current hours that apply to each function.

Primary/Secondary	Due Date	Legal	CD	Culture
Law Enforcement Officer	12/31/2017	1		

CLASSES

	Class #	Start Date	Comp. Date	Legal	CD	Culture	Class Total	Credited	F41
RMS - Interact Training (Power Users Advanced)	2869	3/3/2015	3/3/2015	0	6	0	6	Y	0 Satisfactorily completed.
RMS - Interact Train The Trainer	2849	1/20/2015	1/22/2015	0	24	0	24	Y	701 Satisfactorily completed
Media Training	2749	11/4/2014	11/5/2014	0	16	0	16	Y	0 Satisfactorily completed
2014 Fall Firearms Qualifications - Instructors	2806	10/2/2014	10/2/2014	0	4	0	4	Y	0 Satisfactorily completed
Blood Borne Pathogens for Law Enforcement On-Line Class	2769	7/1/2014	7/18/2014	0	2	0	2	Y	0 Satisfactorily completed
2014 Legal Update On-Line Class	2770	7/1/2014	7/17/2014	4	0	0	4	Y	0 Satisfactorily completed
1st Aide / CPR / AED Training	2756	6/19/2014	6/19/2014	0	5.5	0	5.5	Y	0 Satisfactorily completed
Narcotics Field Test Kit - On-Line through Knowledge Center	2757	5/19/2014	6/19/2014	0	0	0	0	Y	0 Satisfactorily completed
Cultural Diversity On-Line Class	2734	4/1/2014	6/3/2014	0	0	2	2	Y	0 Satisfactorily completed
2013 In Service Training:	2680	10/29/2013	10/31/2013	4	16	0	20	Y	0 Satisfactorily completed
Legal Update 2013 On-Line Class	2669	7/1/2013	8/1/2013	4	0	0	4	Y	0 Satisfactorily completed
General Instructor Re-Certification On-Line Class	2604	4/1/2013	6/15/2013	0	2	0	2	Y	0 Satisfactorily completed
Firearms Instructor Re-Certification On-Line Class	2607	4/1/2013	6/13/2013	0	2	0	2	Y	0 Satisfactorily completed
Cultural Diversity On-Line Class	2623	5/2/2013	6/3/2013	0	0	2	2	Y	634 Satisfactorily completed
New Agent Orientation - Training	2597	4/10/2013	5/1/2013	4	36	0	40	Y	0 Satisfactorily completed

F41 INFO

Custer, Thomas S

TRAINING HISTORY - SUMMARY Virginia ABC Training Academy

3/24/2015 11:03:03 AM

ROUTING: Region 9 - Charlottesville
Regional Office

F41# F41 Date
701 2/10/2015

1/22/2015 Law Enforcement In-Service

RMS - Interact Train The Trainer

636 6/20/2013

6/13/2013

Firearms Instructor Re-Certification On-Line Class

635 6/20/2013

6/15/2013

General Instructor Re-Certification On-Line Class

634 6/20/2013

6/3/2013 Law Enforcement In-Service

Cultural Diversity On-Line Class

CERTIFICATIONS

	Cert. Date	Due Date
CPR	6/19/2014	6/19/2016
General	6/15/2013	12/31/2016
Firearms	6/13/2013	12/31/2016

FIREARMS SCORES

Course of Fire	Date	Weapon	Serial Number	Model	Points Possible	1st Score	2nd Score	3rd Score	4th Score	Percent Score Pass	Dept. Issue
Tactical Qualification Co	10/2/2014	On Duty	26-089710	H & K	100	100	0	0		100.000%	<input checked="" type="checkbox"/>
Tactical Qualification Co	10/2/2014	On Duty	26-089710	H & K	100	100	0	0		100.000%	<input checked="" type="checkbox"/>
Tactical Qualification Co	10/2/2014	On Duty	26-089710	H & K	100	96.8	0	0		96.800%	<input checked="" type="checkbox"/>
Tactical Qualification Co	10/2/2014	Shotgun	1053265V	Remington	100	100	0	0		100.000%	<input checked="" type="checkbox"/>
Tactical Qualification Co	5/21/2014	Off Duty	LVT799	Glock 23	100	90	0	0		90.000%	<input type="checkbox"/>
Tactical Qualification Co	5/21/2014	On Duty	26-089710	H & K	100	93.6	0	0		93.600%	<input checked="" type="checkbox"/>
Tactical Qualification Co	5/21/2014	On Duty	26-089710	H & K	100	97.6	0	0		97.600%	<input checked="" type="checkbox"/>
Tactical Qualification Co	10/17/2013	Shotgun	1053265V	Remington	0	0	0	0		0.000%	<input checked="" type="checkbox"/>
Tactical Qualification Co	10/17/2013	On Duty	26-089710	H & K	100	88.8	0	0		88.800%	<input checked="" type="checkbox"/>
Tactical Qualification Co	10/17/2013	Shotgun	1053265V	Remington	0	0	0	0		0.000%	<input checked="" type="checkbox"/>
Tactical Qualification Co	10/17/2013	On Duty	26-089710	H & K	100	96	0	0		96.000%	<input checked="" type="checkbox"/>
Tactical Qualification Co	5/9/2013	Off Duty	LVT799	Glock 23	100	94.8	0	0		94.800%	<input checked="" type="checkbox"/>
Tactical Qualification Co	5/9/2013	Off Duty	LVT799	Glock 23	100	94.8	0	0		94.800%	<input checked="" type="checkbox"/>
Tactical Qualification Co	5/9/2013	On Duty	26-089710	H & K	100	91.6	0	0		91.600%	<input checked="" type="checkbox"/>

Custer, Thomas S

3/24/2015 11:03:03 AM

ROUTING: Region 9 - Charlottesville
Regional Office

Tactical Qualification Co	4/12/2013	Shotgun	1053265V	Remington	0	0	0	0.000%	<input checked="" type="checkbox"/>
Tactical Qualification Co	4/12/2013	On Duty	26-089710	H & K	100	89.2	0	89.200%	<input checked="" type="checkbox"/>
Tactical Qualification Co	4/12/2013	On Duty	26-089710	H & K	100	84.4	0	84.400%	<input checked="" type="checkbox"/>

TRAINING HISTORY - SUMMARY Virginia ABC Training Academy
3/24/2015 11:03:33 AM

ROUTING: Region 9 - Charlottesville
Regional Office

Miller, Jared B

ACE ID: 1500

Employing Agency: Va. Alcohol Beverage Control PD

Badge:

Employment Status: Active

Licensing State: VA

License Number

CAREER TOTALS

Legal	CD	Culture	Class Total
16	87.5	4	107.5

FUNCTIONS

Current hours that apply to each function.

Primary/Secondary	Due Date	Legal	CD	Culture
1	12/31/2017			

CLASSES

Class #	Start Date	Comp. Date	Legal	CD	Culture	Class Total	Class Credited	F41	
RMS Interact Training	2862	2/19/2015	2/19/2015	0	0	0	8	Y	707 Satisfactorily completed
2014 Fall Firearms Qualification	2817	10/20/2014	10/20/2014	0	4	0	4	Y	0 Satisfactorily completed
Blood Borne Pathogens for Law Enforcement On-Line Class	2769	7/1/2014	7/1/2014	0	2	0	2	Y	0 Satisfactorily completed
2014 Legal Update On-Line Class	2770	7/1/2014	7/17/2014	4	0	0	4	Y	0 Satisfactorily completed
Narcotics Field Test Kit - On-Line through Knowledge Center	2757	5/19/2014	6/19/2014	0	0	0	0	Y	0 Satisfactorily completed
Cultural Diversity On-Line Class	2734	4/1/2014	6/3/2014	0	0	2	2	Y	0 Satisfactorily completed
1st Aide / CPR / AED Training	2753	5/29/2014	5/29/2014	0	5.5	0	5.5	Y	0 Satisfactorily completed
Public Information Officers Training	2710	1/14/2014	1/15/2014	0	16	0	16	Y	0 Satisfactorily completed
2013 In-Service Training / Force on Force / Contact and Cover	2661	11/5/2013	11/7/2013	4	16	0	20	Y	0 Satisfactorily completed
Legal Update 2013 On-Line Class	2669	7/1/2013	8/1/2013	4	0	0	4	Y	0 Satisfactorily completed
Cultural Diversity On-Line Class	2623	6/2/2013	6/3/2013	0	0	2	2	Y	634 Satisfactorily completed
New Agent Orientation - Training	2597	4/10/2013	5/1/2013	4	36	0	40	Y	0 Satisfactorily completed

F41 INFO

F41# F41 Date

707 2/25/2015

2/19/2015 Law Enforcement In-Service

RMS Interact Training

634 6/20/2013

Miller, Jared B

TRAINING HISTORY - SUMMARY Virginia ABC Training Academy

3/24/2015 11:03:33 AM

ROUTING: Region 9 - Charlottesville
Regional Office

6/3/2013 Law Enforcement In-Service

Cultural Diversity On-Line Class

CERTIFICATIONS

Cert. Date	Due Date
5/29/2014	5/29/2016

FIREARMS SCORES

Course of Fire	Date	Weapon	Serial Number	Model	Points Possible	1st Score	2nd Score	3rd Score	4th Score	Percent Score	Pass	Issue
Tactical Qualification Co	10/20/2014	Shotgun	1217426V	Remington	100	100	0	0		100.000%	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Tactical Qualification Co	10/20/2014	Shotgun	1217426V	Remington	100	100	0	0		100.000%	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Tactical Qualification Co	10/20/2014	On Duty	26-089666	H & K	100	92	0	0		92.000%	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Tactical Qualification Co	10/20/2014	On Duty	26-089666	H & K	100	80.4	0	0		80.400%	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Tactical Qualification Co	5/7/2014	Off Duty	NYZ784	Glock 27	100	96	0	0		96.000%	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Tactical Qualification Co	10/10/2013	Shotgun	1217426V	Remington	0	0	0	0		0.000%	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Tactical Qualification Co	10/10/2013	Shotgun	1217426V	Remington	0	0	0	0		0.000%	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Tactical Qualification Co	10/10/2013	On Duty	26-089666	H & K	100	96	0	0		96.000%	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Tactical Qualification Co	10/10/2013	On Duty	26-089666	H & K	100	96.8	0	0		96.800%	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Tactical Qualification Co	5/23/2013	On Duty	26-089666	H & K	100	79.6	0	0		79.600%	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Tactical Qualification Co	5/23/2013	Off Duty	NYZ784	Glock 27	100	82.8	0	0		82.800%	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Tactical Qualification Co	4/12/2013	Shotgun	W64732SM	Remington	0	0	0	0		0.000%	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Tactical Qualification Co	4/12/2013	On Duty	26-089666	H & K	100	83	0	0		83.000%	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Tactical Qualification Co	4/12/2013	On Duty	26-089666	H & K	100	86.4	0	0		86.400%	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Miller, Jared B



COMMONWEALTH of VIRGINIA

Department of Alcoholic Beverage Control

COMMISSIONERS
JEFFREY L. PAINTER, CHAIRMAN
JUDITH G. NAPIER
HENRY L. MARSH, III

2901 HERMITAGE ROAD
P. O. BOX 27491
RICHMOND, VIRGINIA 23261
(804) 213-4400
FAX: (804) 213-4411
www.abc.virginia.gov

March 31, 2015

Michael S. Bryant
Senior Special Agent
Virginia State Police
General Investigation Section
240 Third Division Loop
Appomattox, VA 24522

Dear Senior Special Agent Bryant:

Pursuant to information requested by the Virginia State Police, the following information is offered.

One of the primary investigative techniques utilized by Agents, to ensure public safety and compliance by licensees and to actively work complaints and investigations, is conducting observations in and around licensed establishments, as well as at special events where alcohol is present. During calendar years 2011, 2012 and 2013, Agents conducted 3092, 2961 and 2700 observations, respectively. During calendar year 2014, Agents conducted 2807 observations.

In an attempt to more accurately identify those observations conducted in 2014 that were most similar to those being conducted by Agents in Charlottesville on March 17th and 18th, a manual data pull was conducted by each region. Similar type observations were defined as Agents working in and around licensed establishments, whether in uniform or not, monitoring compliance by licensees and addressing public safety concerns that may have presented themselves. What is not considered are those observations conducted by Agents exclusively addressing any particular licensed establishments. The results indicate that of the 2807 total observations conducted in 2014, over 1950 of them were very similar. Of those similar observations, over 175 were conducted in and around college campuses. The exact breakdown is as follows:

Roanoke/Abingdon Enforcement Office (Region 1): 102 total similar observations (21 in and around colleges or universities)

Lynchburg Enforcement Office (Region 2): 75 total similar observations (7 in and around colleges or universities)

Staunton Enforcement Office (Region 3): 93 total similar observations (16 in and around colleges and universities)

ATTACHMENT No. 4

Michael S. Bryant
March 31, 2015
Page 2

Alexandria Enforcement Office (Region 4): 482 total similar observations (69 in and around colleges and universities)

Fredericksburg Enforcement Office (Region 5): 78 total similar observations (22 in and around colleges and universities)

Richmond Enforcement Office (Region 6): 262 total similar observations (3 in and around colleges and universities)

Hampton Enforcement Office (Region 7): 83 total similar observations (22 in and around colleges and universities)

Chesapeake Enforcement Office (Region 8): 392 total similar observations (12 in and around colleges and universities)

Charlottesville Enforcement Office (Region 9): 16 total similar observations (5 in and around colleges and universities) NOTE: Statistics reported are from September 10, 2014 through December 31, 2014 as the region only came into existence on September 10. The Charlottesville region was created by combining territories from the Staunton, Fredericksburg and Lynchburg regions.

NOTE: To date in 2015, all regions combined have conducted 373 total, similar observations with 53 of those conducted in and around college campuses.

Additional Incident Reports

In addition to the encounter with Mr. Johnson, the Charlottesville Agents did have one earlier encounter with a subject on the downtown mall who was issued a summons for violation of 4.1-305B (possession of a false ID). As a result of the issuance of the summons, an incident report was generated. A copy of the report is attached.

St. Patrick's Day 2015 Results

41 Agents across the Commonwealth worked in and around St. Patrick's Day events on March 12th, 14th and 17th. Incident reports were completed for the following charges placed on the following dates:

March 12, 2015 – 2 Possession of Fake ID

March 14, 2015 – 1 Public Intoxication and 1 Disorderly Conduct

March 17, 2015 – 5 Public Intoxication, 2 Possession of Fake ID, 1 Under Age Possession of Alcohol and 1 Obstruction of Justice.

Included in the 5 Public Intoxication arrests on March 17th is the arrest of Mr. Johnson. Of additional note, Agents in Roanoke worked in and around Radford University and Virginia Tech, making one arrest of a white, female subject for Public Intoxication.

Copies of incident reports for all listed charges are attached.

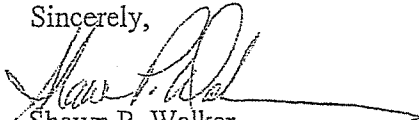
Michael S. Bryant
March 31, 2015
Page 3

Trinity

Special Agent in Charge Joseph Cannon related that representatives from Trinity met with Charlottesville Enforcement personnel (including SAC Cannon) approximately a week prior to St. Patrick's Day. The meeting was held at the request of Trinity ownership to discuss regulatory charges pending against the ABC license and ways that Trinity and ABC could work more closely together moving forward. During the meeting, problems typically encountered at the establishment, such as overcrowding and over service, were discussed. Additionally, Enforcement personnel agreed to provide additional training for Trinity staff at Trinity's request. Enforcement personnel also advised Trinity that Agents would be out conducting observations in and around licensed establishments conducting St. Patrick's Day events and as Trinity was advertising such an event, the Agents would be checking on them as well. No written or other documentation exists.

Please do not hesitate to contact me at (804) 213-4569 if you have questions.

Sincerely,



Shawn P. Walker

Director
Bureau of Law Enforcement

SPW:mwm

Attachments



VIRGINIA ALCOHOLIC BEVERAGE CONTROL
BUREAU OF LAW ENFORCEMENT

GENERAL ORDER #216

OPERATIONAL PLANS/SPECIAL EVENT OPERATIONS

EFFECTIVE DATE: July 28, 2014
REFERENCES:
REPLACES: G.O. 84
TLP: WHITE


Director

I. PURPOSE

The purpose of this General Order is to establish the procedures for special agents on actions that would automatically require completion of an operational plan. These guidelines are designed to maximize the efforts of those involved and to better ensure the safety of those individuals and the public.

II. POLICY

It is the policy of the Bureau of Law Enforcement to require an operational plan be completed for certain operations, as well as special events.

III. PROCEDURES

- A. Absent exigent circumstances, the Bureau of Law Enforcement will require that an Operational Plan (EB-54) be completed and sent to the Deputy Director of Field Operations 48 hours prior to event for approval in the following situations:
1. Any structured, pre-planned operations/observations for which enforcement action is anticipated;
 - a. Agents working assigned complaints – while this situation could be construed as being pre-planned, an operational plan would not normally be required and is at the discretion of the SAC.
 2. Confidential informant (CI) operations;
 3. When any law enforcement officer is utilized in an undercover capacity;
 - a. The undercover officer shall wear an electronic monitoring device and the information will be captured on the EB-54.
 - b. If a device cannot be worn due to operational circumstances that information shall also be documented on the EB-54.

ATTACHMENT No. 5

4. Search warrants are executed (with exceptions);
 5. Any operation involving five (5) or more sworn personnel;
 - a. The SAC may require an operational plan for operations/investigations utilizing less than five (5) sworn personnel based on the individual merits of each situation.
 6. Prior to any Bureau sponsored special event; and
 7. For any situation where Bureau personnel are utilized by an outside Agency for an undercover activity.
- B. Completing the Operational Plan (EB-54)
1. The Assistant Special Agent in Charge (ASAC) in conjunction with the Case Agent will be responsible for the development and preparation of this plan.
 2. The completed operational plan (EB-54) will be submitted to the SAC for approval.
 3. Once approved the SAC will forward an electronic copy of the plan to the Deputy Director of Field Operations for approval via email. The EB-54 file shall be saved as name and date of the event (i.e. Beatles Concert 06-02-2014).
- C. Debriefing
1. A documented debrief of every operation involving an operational plan will be submitted through the chain of command to the Deputy Director of Field Operations for review and further dissemination to the Director as necessary/appropriate. Included in this debrief should be information regarding any high profile incident(s) to include what occurred and who was involved.
 2. This debrief will be completed on the final page of the EB-54 by the SAC or his/her designee and submitted through the chain of command electronically via email to the Deputy Director of Field Operations within 48 hours of the conclusion of the operation. This EB-54 file shall be saved as name and date of the event, with the addition of the word "Debrief" (i.e. Debrief Beatles Concert 06-02-2014).

D. Media Releases in Relation to Operational Plans

1. The submission of a Media Release Request Form (EB-57) is not necessary for every operation. However, it is recommended in situations where the public release of information would be beneficial, that the EB-57 be completed and submitted.
2. The SAC or his/her designee may complete the EB-57 either prior to or at the conclusion of an operation, at their discretion.
3. Upon completion of the EB-57, the SAC will forward the form to the Deputy Director of Field Operations.



VIRGINIA ALCOHOLIC BEVERAGE CONTROL
BUREAU OF LAW ENFORCEMENT

GENERAL ORDER #200

RESPONSE TO ACTIVE RESISTANCE

EFFECTIVE DATE: July 28, 2014

REFERENCES:

REPLACES: G.O. 05, G.O. 62

TLP: WHITE

Director

I. PURPOSE

The purpose of this General Order is to provide sworn agents with guidelines on the use of lethal and less lethal force to protect life and provide for the public's safety, and to define the post-event responsibilities of the agent and the Agency.

II. POLICY

It is the policy of the Bureau of Law Enforcement that all sworn personnel are provided with the training, equipment, and guidelines necessary to properly respond to an act of active resistance.

III. DEFINITIONS

- A. Lethal Force - Any response to active resistance that is likely to cause death or serious injury.
- B. Excessive Force - Force is excessive when its application is more than is necessary under the circumstances that exist at the time force is used.
- C. Less Lethal Force - Any response to active resistance that is neither likely, nor intended to cause death or serious physical injury.
- D. Reasonable Belief - When facts or circumstances the agent knows, or should know, are such as to cause a reasonable or prudent agent to act or think in a similar way under similar circumstances.
- E. Reasonably Necessary - Those actions, based upon the known facts or circumstances, which would normally be taken by a reasonable or prudent agent under similar circumstances.
- F. Serious Physical Injury - Any injury that could result in disfigurement, disability, serious bodily harm, or death.

- G. Response to Active Resistance Continuum - A training model/philosophy that supports the progressive and reasonable escalation and de-escalation of agent - applied response to the actions and level of resistance offered by a subject. The level of response is based upon the severity of the crime, immediate threat, active resistance to arrest, or attempting to evade arrest by flight. Such response may progress from the agent's actual physical presence at the scene to the application of lethal force.
- H. Property Damage – Damage to private property due to actions during the course of duty.
- I. Passive Resistance – Nonviolent opposition to authority or refusal to comply with a legal requirement.

IV. PROCEDURES

A. Overview

1. Agents are routinely confronted with situations where force must be used to make an arrest and to protect the public's safety. To minimize resistance by the suspect when an agent is making an arrest, the agent(s) should first attempt to achieve control through verbal commands and/or persuasion, when practical.
2. The use of reasonable force may become necessary in situations which cannot otherwise be controlled. When resistance to arrest or a threat to human life is encountered, and reasonable alternatives have been exhausted, reasonable force may be employed.
3. Based upon the severity of the situation, only that force which is reasonable and necessary to accomplish lawful objectives, while preventing injury and while protecting the life of the agent or others, shall be applied.
4. Response to active resistance shall be guided by objective reasonableness. A standard of caution wherein agents must determine the necessity, and the appropriate level of force, based on an evaluation of the circumstances known to the agent at the time the decision to use force is made. The circumstances to be considered include, but are not limited to:
 - a. The severity of the crime;
 - b. The immediate threat posed by a suspect to the agent or others;
 - c. The level of resistance presented by a suspect;
 - d. The potential danger to the community posed by a suspect; and

- e. Rapidly evolving circumstances and/or the rapidly changing dynamics of a situation.

B. Parameters for the Response to Active Resistance

1. The application of force includes a wide range of alternatives. The agent's options include mere presence, verbal control, approved compliance techniques, Bureau issued chemical agents, and other issued defensive tools and techniques, and finally lethal force. These tools may be employed in response to the threat level recognized by the agent as deemed necessary to protect him or herself or another from physical harm, to restrain or subdue a resistant individual. Agents shall modify their level of force in relation to the amount of resistance by the subject. As the subject offers less resistance, the agent shall lower or cease the amount and/or type of force used. Conversely, if resistance escalates, agents are authorized to respond with those techniques and/or tools at their disposal to gain control of the subject.
2. Agents who encounter a situation where the possibility of violence or resistance to lawful arrest is present should, if possible, attempt to diffuse the situation through advice, warning, and/or verbal persuasion. Agents will approach all situations in a manner consistent with Bureau policy and training. Agents will not, through the use of poor tactic, put themselves in a position that requires the response to active resistance, when the response to active resistance could have been avoided through proper tactics. Agents will take tactically sound positions, make appropriate use of available back up, use cover effectively, and utilize agent safety training and techniques to minimize both the danger to themselves and the need to use force.
3. In the event that a situation escalates beyond the effective use of verbal diffusion techniques, agents are authorized to employ Bureau-approved compliance techniques, chemical agents, and other issued defensive tools. All authorized personal defensive tools shall be used in accordance with procedures and in the manner prescribed during training. Additionally, no agent shall employ any such tool prior to successfully completing such Bureau-approved training courses, as directed by the Virginia Department of Criminal Justice Services.
4. Under no circumstance shall an agent carry or use any unauthorized weapons or ammunition.

5. Except where lethal force is justified, dangerous or potentially lethal techniques such as the following will not be deliberately used to gain control of a suspect:
 - a. Gouges to the eyes;
 - b. Hard strikes to the temple;
 - c. Hard strikes to the throat;
 - d. Hard strikes to the spine;
 - e. Upward strikes to the nose;
 - f. Shunting of blood or breath;
 - g. Upward strike or kick to the groin; or
 - h. Violent twisting of the head or neck.
6. Agents shall not employ as a means of force flashlights, radios, or any other item(s) not issued specifically as defensive weapon as a means of force, except when there is reason to believe that the imminent threat of death or serious physical injury exists, and no other option is available.
7. Force will not be used to extract drugs or evidence from a suspect's mouth. Suspects who have ingested drugs or evidence shall be provided medical treatment.
8. Following the application of any type of force and once the situation is contained; agents shall provide or arrange to provide medical assistance as necessary.

C. Parameters for the Use of Lethal Force

1. Lethal force may only be used to:
 - a. Protect the agent or others from what is reasonably believed by the agent to be an imminent threat of death or serious physical injury;
 - b. Prevent the escape of a fleeing subject when the agent has probable cause to believe the subject has committed a felony involving the infliction or threatened infliction of serious physical injury or death, and escape of the subject would pose an imminent danger of death or serious physical injury to the agent or to another person; or
 - c. Dispatch an animal that represents a threat to public safety or as a humanitarian measure where the animal is seriously injured.
2. When feasible, before using a firearm, agents shall identify themselves to the suspect and state their intent to shoot.
3. Warning shots are prohibited.

4. Shooting into a crowd is prohibited.
5. Firearms shall not be discharged if it appears that an innocent person may be injured.

D. Firing At or From Vehicles

Firearms shall not be discharged at a moving vehicle unless a person in the vehicle poses an immediate threat to the agent or other person with the use of deadly force by means other than the vehicle, or if it is clearly evident that the driver of the vehicle is using the vehicle to inflict death or grievous bodily harm upon the agent or other person. However, an agent threatened by an oncoming vehicle should move out of its path instead of discharging a firearm at it or any of its occupants whenever possible.

E. Reporting Response to Active Resistance Incidents

1. Unless incapacitated, the agent shall, by the end of his/her work day, prepare and submit to their supervisor a Response to Active Resistance Form (EB-03) and all related documentation, in the following situations:
 - a. When an agent discharges a firearm either while on or off-duty, and when acting in an official capacity as a law enforcement agent; excluding required training or firearms practice.
 - b. Whenever any force is used, other than handcuffing or normal restraint, regardless of whether there is an injury or a complaint of injury. The use of Bureau-approved compliance techniques that do not involve a strike to the subject (control holds, grounding control techniques, take down techniques, and non-striking distraction techniques) are considered normal restraint and do not require a response to active resistance, unless (1) there is any injury, appearance of injury, or complaint of injury that results from the action; or (2) a complaint of excessive force is made while at the scene.
 - c. Whenever any Bureau issued less than lethal weapon is used, whether the contact is intentional or unintentional.
 - d. Whenever any agent points their weapon at an individual in the course of responding to active resistance
 - e. Whenever any agent damages private property in the line of duty.

2. As a result of a response to active resistance, if a custodial arrestee sustains any visible injury or requires medical attention (even if he/she refuses treatment) the arresting agent or transporting agent shall ensure and document that the individual is offered medical treatment to include; type of treatment, by whom and if treatment is refused. The information shall be entered in the narrative section of the CMS report. If the subject receiving the injury or otherwise requiring medical attention is not an arrestee or is a non-custodial arrestee (released on a summons), the agent shall offer to arrange medical treatment and document refusal, if applicable.
3. In the situations detailed above, the involved agent(s) shall immediately notify a supervisor. The supervisor shall be responsible for the following:
 - a. Ensure that the involved agent accurately and properly prepares a EB-03 Form;
 - b. Have photographs of any alleged injuries/damage to private property taken at the scene;
 - c. Interview the subject involved on site as soon as possible and document any interview or refusal in the CMS report;
 - d. Submit a copy of all photographs and reports to include; completed EB-03 with recommendation, Case Management Report, copies of warrants, medical release documents (if applicable) and other related documents to the Deputy Director of Field Operations through channels by the close of business on the next working day; and
 - e. In all situations where an EB-03 Form is required, the form shall be completed and submitted by the involved agent prior to going off-duty. If the agent is unable to complete the EB-03 due to injury, it shall be the responsibility of the agent's supervisor to prepare and submit all required paperwork prior to going off duty. Additionally, any unusual circumstances involving the incident shall be communicated to the Deputy Director of Field Operations immediately.
 - 1) Once the Deputy Director of Field Operations receives the reports, he/she shall review the reports for accuracy and completeness, complete the Deputy Director review section within five business days, and distribute as follows:
 - a) The original EB-03 and package shall be maintained by the Office of Professional Standards.

- b) A copy of the EB-03 shall be forwarded to the SAC of Training. No supervisor who uses force during an incident will act as a reviewing supervisor for the Response to Active Resistance reports (EB-03) of others who are involved.
- 4. Supervisors will, when feasible, respond to the scene and photograph and interview the arrestees and all other parties involved in situations where response to active resistance is utilized. Supervisors shall take into consideration the seriousness of the injury, travel time and anticipated time the arrestee will be under the agent's custody and control when determining if responding is appropriate. If not interviewed on the scene by the supervisor, the supervisor shall interview the individual as soon as possible. Agents shall photograph arrestees on all responses to active resistance incidents to include use of Bureau issued chemical agents. The photographs must be included when a response to active resistance packet is compiled.

F. Procedures Following A Firearms Discharge

- 1. Firearm discharge as a response to active resistance.
 - a. Any agent (while on or off-duty) who discharges any firearm while the agent is acting in the performance of official duties shall:
 - 1) Immediately take all measures to render the situation safe and provide/summon medical assistance for anyone who may be injured;
 - 2) Notify the local Emergency Communications Center of the situation;
 - 3) Request additional units to assist in protecting the scene and detaining witnesses;
 - 4) Contact his/her immediate supervisor to respond to the scene. If the immediate supervisor is unavailable, the first available supervisor should be contacted. In all cases of firearms discharges, a supervisor shall respond; and
 - 5) Complete a Firearm Discharge/Firearm Assault Report (EB-04) and, if applicable, a Response to Active Resistance (EB-03), and the following reports if applicable; Damage to Private Property (EB-09), Line of Duty Injury (EB-10), and the Law Enforcement Officers Assault report (EB-11).

b. The responding supervisor shall:

- 1) Confirm that appropriate medical assistance has been summoned/provided, if necessary;
- 2) Ensure that local law enforcement is responding and make the appropriate notifications to Command Staff personnel. The Director or designee will contact the State Police;
- 3) Ensure that the scene has been protected and witnesses identified, separated, and detained;
- 4) Coordinate the activities of responding back-up units;
- 5) In law enforcement shooting cases, separate all involved agents, and assign support supervisor or personnel (if available) to each involved agent;
- 6) Ensure that a Firearm Discharge/Firearm Assault Report (EB-04) and a Response to Active Resistance (EB-03) if applicable, is completed;
- 7) Ensure a Case Management Report (CMS) is completed in those cases where an injury or death occurs as a result of an agent discharging his/her firearm. A Critical Incident Checklist (EB-05) shall also be completed and forwarded through channels to the Director; and
- 8) Be responsible for submitting all necessary reports through channels to the Director, prior to the end of shift.

c. The supervisor or support personnel (if available) assigned to each agent in police shootings shall:

- 1) Provide security and support to the agent;
- 2) Ensure that no one discusses the case with the agent prior to the arrival of the local or State Police;
- 3) Immediately take possession of the involved agent's firearm and all magazines and ammunition under his/her control, unless they are part of the crime scene. In doing so, the responding supervisor shall take possession of the holster with the firearm inside, and the magazine pouches with the magazines inside; and

- 4) The supervisor shall take no action other than de-cocking the weapon (if necessary to render it safe) and securing the weapon into the holster if it is not already secured in. If the agent used the Bureau's issued shotgun, or any other firearm, the responding supervisor shall take possession of and secure the shotgun or other firearm and all magazines and ammunition unless the firearm and/or magazines and ammunition are part of the crime scene. No one other than the responding supervisor will handle or take possession of the firearm. When the local or State Police forensics investigator arrives on the scene, the supervisor will surrender the firearm to the assigned forensics investigator, and will advise the forensics investigator whether he/she de-cocked the firearm and whether he/she secured it in the holster.

NOTE: As is always the case, firearms in these instances shall be handled with extreme care to ensure safety.

d. Replacement of Weapon

- 1) When a response to active resistance incident results in serious physical injury or death, the Director will suspend or restrict the police powers of the involved agent(s). When the agent(s) police powers are restricted rather than suspended, the Director or designee will issue a replacement weapon to the agent(s).

2. Firearm discharge to dispatch an injured animal

- a. Any agent who discharges a firearm while acting in the performance of his/her official duty in order to dispatch an injured animal shall:
 - 1) Immediately take all measures to render the situation safe;
 - 2) Notify the local Emergency Communications Center of the situation;
 - 3) Contact his/her immediate supervisor to report the event; and
 - 4) Complete a Firearm Discharge/Firearm Assault Report (EB-04) and, if applicable Damage to Private Property (EB-09).

3. Firearm discharge - Accidental

- a. Any agent (while on or off-duty) who discharges any firearm accidentally shall:

- 1) Immediately take all measures to render the situation safe and provide/summon medical assistance for anyone who might be injured;
- 2) Notify the local Emergency Communications Center of the situation if the event occurred while on-duty and in public;
- 3) Contact his/her immediate supervisor to report the event immediately after; and
- 4) Complete a Firearm Discharge/Firearm Assault Report (EB-04) and, if applicable, Damage to Private Property (EB-09).

G. Firearms Discharge Report

1. The Firearm Discharge/Firearm Assault Report (EB-04) must be completed for each event when an agent discharges his/her firearm in the line of duty. The form shall be completed by the involved agent unless the agent is injured and unable to do so. The supervisor of the agent shall complete the form with as much information as possible if the agent is unable to do so. If the firearm discharge results in a death or serious injury, a Critical Incident Checklist must be completed. The EB-04 and the Critical Incident Checklist shall not be completed for training activities.
2. The Firearm Discharge/Firearm Assault Report (EB-04), the FBI Assault Form and the Critical Incident Checklist must be completed any time an agent is assaulted with a firearm. The EB-04 and the FBI Assault Form will be included with the CMS Report relating to any assault. The Critical Incident Checklist will be forwarded to the Director through channels, with an additional copy forwarded to the SAC of Professional Standards.
3. CMS Report:
 - a. The FBI's Assault Form will be included with the CMS report;
 - b. A picture will be taken of the agent's physical condition including clothing, and any cuts and bruises;
 - c. A picture will be taken of the suspect's physical condition including clothing, and any cuts and bruises;
 - d. A case folder will be prepared for the Commonwealth's Attorney; and
 - e. Supervisors will notify the Deputy Director of Field Operations (through channels) of any such incident.

H. Complaints of Excessive Force

Upon receiving any complaint of excessive force the investigating supervisor will conduct a preliminary investigation and complete an EB-13 Citizens Complaint form. If the incident results in a life threatening medical emergency, or has the potential of media attention, the Deputy Director of Field Operations will immediately be notified through channels. The Director will determine the appropriate level of response and determine if the complaint will be handled by the Office of Professional Standards or by field supervision. This applies only to complaints of excessive force, not normal response to active resistance investigations.

I. Bureau's Responsibilities to Response to Active Resistance

1. When a response to active resistance situation results in serious physical injury or death, the involved agent's police powers will be suspended or restricted immediately. The agent(s)' police powers shall remain suspended or restricted until such time that:
 - a. The agent has received psychological clearance to have his/her police powers restored; and
 - b. The Board/Director authorizes the restoration of the agent's police powers.
2. The Bureau will initiate an administrative investigation of all cases involving the use of lethal force. The local jurisdictional law enforcement agency or the Virginia State Police will conduct a criminal investigation. The Office of Professional Standards shall monitor the criminal investigation and any subsequent judicial proceedings.
3. All reported responses to active resistance complaints will be reviewed by the Deputy Director of Field Operations or designee to determine the following:
 - a. If Bureau policies were followed;
 - b. If any relevant Bureau issued directive was understandable and germane to the encountered situation; and
 - c. If Bureau training is currently adequate.
4. The Director or designee will recommend policy or training changes based upon his/her findings in each case reviewed. The Office of Professional Standards will retain all case files.

- a. The Office of Professional Standards may conduct an annual analysis of responses to active resistance(s) and forward a written report, including any recommendations for changes to training or equipment, to the Director, if required.
5. Upon final review by the Deputy Director of Field Operations, the SAC of Professional Standards will provide notice to the employee of the final disposition.

COMMONWEALTH OF VIRGINIA Va. Code § 19-2-71 - 72

CITY OR COUNTY

☒ General District Court ☒ Criminal ☐ Traffic
☐ Juvenile and Domestic Relations District Court

You are hereby commanded in the name

You are hereby commanded in the name of the Commonwealth of Virginia forthwith to arrest and bring the Accused before this Court to answer the charge that the Accused, within this city or county, on or about 03/18/2015 did unlawfully in violation of Section _____

DATE _____

18.2-400, Code of Virginia, without just cause, knowingly obstruct a law-enforcement officer, in the performance of duties as such, or fail or refuse to cease such obstruction without just cause when requested to do so.

I, the undersigned, have found probable cause to believe that the Accused committed the offense charged, based on the sworn statements of

Special Agent J. Miller ABC

Execution by summons ☐ permitted at officer's discretion. ☒ not permitted

03/18/2015 04:12 AM

DATE AND TIME ISSUED

☐ CLERK ☒ MAGISTRATE ☐ JUDGE

CCRE May be Required

Hearing Date/Time

STALLS

ATTACHMENT
No. 8

SUMMONS

COMMONWEALTH OF VIRGINIA Va. Code § 19.2-73; Rule 3A:4

Charlottesville

CITY OR COUNTY

[x] General District Court [] Juvenile and Domestic Relations District Court

606 East Market Street Charlottesville, VA 22901

STREET ADDRESS OF COURT

[x] Commonwealth of Virginia [] City [] County [] Town of

TO THE ACCUSED:

You are hereby commanded to appear before this Court on

Mar 26, 2015 10:00 AM

DATE AND TIME OF HEARING

DATE

to answer the charge that on or about 03/18/2015 within this [] Town of [] CITY [] COUNTY you did unlawfully appear in public in an intoxicated condition.

In violation of Section 18.2-388

[x] Code of Virginia (OR)

[] Ordinances of this City, County or Town.

YOU MUST APPEAR in court at the time and place shown above and appear at all other times and places and before any court or judge to which this case may be rescheduled, continued, transferred or appealed.

WARNING TO THE ACCUSED: You may be tried and convicted in your absence if you fail to appear in response to this summons. Willful failure to appear for a misdemeanor charge is a separate offense.

I, the undersigned, have found probable cause to believe that the Accused committed the offense charged, based on the sworn statements of Special Agent J. Miller ABC, Complainant.

03/18/2015 04:13 AM

DATE AND TIME ISSUED

[] CLERK

[x] MAGISTRATE [] JUDGE

Ruth Daleky

FORM DC-319 (MASTER, PAGE ONE OF TWO) 07/11

ATTORNEY AT LAW

CASE NO.

ACCUSED:

Johnson, Martese

LAST NAME FIRST NAME MIDDLE NAME

[REDACTED]

ADDRESS/LOCATION

Charlottesville, VA 22901

To be completed upon service as Summons

Mailing address [] Same as above

RACE	SEX	BORN	HT.	WGT.	EYES	HAIR
B	M	MO. DAY YR.	FT. IN.	LB.		
		1994	5' 07"	165		BLK
SSN						
DL#						
STATE						

[] Commercial Driver's License

CLASS 4 MISDEMEANOR

- ☒ EXECUTED by delivering a true copy of this summons to the Accused in person today.
☐ For legal entities other than individuals, service pursuant to Va. Code § 19.2-76.
☐ The Accused certified to me the above mailing address.

3/18/15 04:15

DATE AND TIME OF SERVICE

J. Miller

ARRESTING OFFICER

1451

VA ABC

103

BADGE NO., AGENCY AND JURISDICTION

for

SHERIFF

Attorney for the Accused:

Short Offense Description (not a legal definition):
PROFANE SWEARING OR INTOXICATION IN PUBLIC

Offense Tracking Number:

540GM1500001790

FOR ADMINISTRATIVE USE ONLY

Virginia Crime Code:

OBS-3712-M4

SUMMONS

COPY
COPY
COPY
Mar 26, 201
10:00 AM
Hearing Date/Time



COMMONWEALTH OF VIRGINIA

DEPARTMENT OF STATE POLICE

June 24, 2015

TO: Special Agent Thomas S. Custer

FROM: Captain Gary B. Payne

SUBJECT: Administrative Investigation/Review - Department of Alcoholic Beverage Control
Arrest Incident
Martese Rashaad Johnson

At the request of the Office of the Governor, the Virginia State Police, Internal Affairs Section, is conducting an administrative investigation/review of the arrest of Martese Rashaad Johnson on March 18, 2015, by Virginia Department of Alcoholic Beverage Control Special Agents. The arrest occurred on the sidewalk in front of the Trinity Irish Pub, located at 1505 University Avenue, in the city of Charlottesville, Virginia.

The purpose of this interview is to determine the circumstances that led to Johnson's detention, arrest, and injury, for administrative purposes. In conjunction with this interview, you will also be required to submit a written response.

ATTACHMENT No. 10



COMMONWEALTH of VIRGINIA

Department of Alcoholic Beverage Control

2901 HERMITAGE ROAD
P O BOX 27491
RICHMOND, VIRGINIA 23261

PHONE (804) 213-4400
FAX (804) 213-4411
WWW.ABC.VIRGINIA.GOV

TO: Captain Gary B. Payne

FROM: Special Agent Thomas S. Custer

SUBJECT: Administrative Investigation/Review- Department of Alcoholic Beverage Control
Arrest Incident (Martese Rashaad Johnson)

DATE: June 26th 2015

This memo is not intended to take away or alter my original report but to clarify and add details that were left out originally.

Prior to the night of March 17th 2015 I received an email from SAC Cannon asking to give the name of any Irish pub or restaurant in my assigned territory. I responded back to SAC Cannon that I did not have any Irish Pub's or restaurants. A few days later an unannounced meeting occurred with Agents Cielakie, Miller, SAC Cannon and I where it was discussed the option of working St. Patrick's Day in the city of Charlottesville or an upcoming sorority party. It was determined that our efforts would be best utilized on St. Patrick's Day. It was also determined that there a couple Irish bar businesses in the City of Charlottesville that we would need to check on being McGrady's and Trinity's. A couple days later we discovered that a large rave party was going to be held on the same night as St. Patrick's Day at the Jefferson Theatre located in the downtown mall in Charlottesville. It was discussed and agreed on that the 3 Agents Cielakie, Miller and I would start our night off working the area of the Jefferson theatre where we have a good working relationship with and later make our way to the corner area of Charlottesville.

On March 17th 2015 St. Patrick's Day holiday started out as planned agents meet at the Region 9 office where they all were dressed in their department issued uniform as prior discussed by the agents. Agent Cielakie made notification to Charlottesville dispatch and State police dispatch making them aware we would be out working in these areas, how we were dressed and a description of the vehicle we would be driving. All Agents were wearing their duty belt containing their issued handgun, pepper spray, handcuffs and Asp. Agents loaded into the vehicle along with summons books, evidence bags, containers and made their way to the Jefferson theatre.

Once at the Jefferson theatre we all met with the various bouncers and workers. We stood around talking for a while and just getting to know each other waiting the specific time the doors would open. We discussed we weren't there to do their jobs or make sure they are doing their jobs just to assist them. We discussed how we would handle an Id in which if one of the bouncers may feel was a fictitious Id. It was agreed upon the bouncer would just hold it up over his head or yell to one of us since we were going to be

ATTACHMENT No. 11

located in close proximity to the Id checking areas. Once the doors opened it was a very diverse crowd young, old and of all races everything ran smoothly the entire evening. On one occasion I was alerted by one of the bouncers that he believed he had a young female presenting him an Id that was not her own. I took possession of the Id and asked the young lady to step to the side along with me. I observed the Id that she presented and could determine with great certainty that the photo in the Id was not the female standing before me. I asked the young lady several questions about the Id some questions she responded to some she didn't. After I felt certain this was not her and she at least should have felt that she had been caught I explained to her I was going to write her a summons under 4.1-305b for using or attempting to use a fake Id in order to consume alcoholic beverages due to the fact this was not a 21 and over show so the only reason to attempt this would be for the sole purpose of consuming alcoholic beverages. I asked the young lady for her real name several times where she did not respond and I then explained to her that I was only going to write her a summons she continually stated that it was her. I then asked to see her ticket for entry into the show she paused and hesitated and as she pulled it out of her purse she knew she had been caught due to the fact her real identity was on the ticket. The female was written a summons and I asked the manager if he would like for her to be able to go to the show and he stated "absolutely not she is out of here." The young lady was sent out the exit door and I retained her ticket for the show where it is placed in evidence along with the Id that she presented. We continued to monitor the lines coming into the Jefferson theatre for a while after and made several trips into the event where we observed many people consuming alcoholic beverages, dancing and socializing. We then met with the manager and bouncer and made them aware that we were going to leave and shortly after left the event and area.

After leaving the Jefferson theatre all agents riding in the same vehicle stopped at a McDonalds where we had some dinner and discussed the event at the Jefferson theatre and how great a relationship we have with the management there. We discussed where we were going next which was the corner area. Agent Miller either received a phone call or called a previous coworker that I had got to know while enrolled in the Police academy. We all spoke with [REDACTED] who works for Charlottesville Police Department and made arrangement to meet near the police substation near the corner. Agents drove to the predetermined meeting spot where we all exited our vehicles and introduced ourselves to other Law Enforcement officers. This location is somewhat across the street from Trinity Irish Pub on the opposite side of the road and down the hill. After speaking with them for a short while we ended up across the street in front of Trinity Irish Pub along with the State Fire Marshall. While standing out front we were made aware by the Fire Marshall that Trinity was over occupancy that he had already told them to let some people leave. The Fire Marshall described it as extremely packed and dark inside the club. Soon after the Fire Marshall asked if one or all of us would go inside with him that it was so packed if something happens he didn't want to be in there alone. Agent Cielakie and I went into the establishment with the Fire Marshall where I observed it was as described very packed with a diverse group, male and females from young to older. During the walk through I observed it was very dim and not well lit on the second floor there was a young female who was vomiting on the floor when I asked if she was ok a bouncer came up and escorted her down the stairs and out the door. On several occasions I had to utilize my flashlight to see to walk and be able to observe individuals that were not far from me. After walking through the establishment we made our way back outside. Where we stood closest to the curb and observed actions from the patrons on the balcony and in line to enter. While standing outside one of the bouncer asked me if I could help get the crowd back due to they were starting to push each other and it was beginning to place the bouncer with their back against the metal railing and they would not have control over the entrance door. I responded letting the bouncer know we were not there to interfere with their business and it was not our responsibility to control all those kids. I explained if you don't want them here tell them your closed no one else is going to be allowed in and they will leave. While observing what all was going on I noticed Agent Cielakie speaking to a male who came from inside the establishment who I was later told was an owner. I overheard the owner state he was glad we were out and Agent Cielakie says something to the effect we weren't here because of complaints or anything just working the area. The owner left went back inside and all the Agents and the Fire Marshall continued to watch the crowds of people and monitor what was going on. I observed on several occasions male and female patrons walk up to the exit area where

different bouncers would allow them to come inside without waiting in the line. I observed the crowd outside pushing each other and the gate be pushed out from its original place due to the pushing of people. I also observed several people jump over the gate due to the fact they were being pushed too hard against this gate. I recall on 2 to 3 occasions while standing on the curb with the Fire Marshall and young appearing light skin male subject who was walking by staring at us. I recall one of his statements as he walked by "Fucking Pigs." No one responded to this foolishness. This same subject walked by again and I recall he was stating very loudly you smell that? You smell that? Smells like a bunch of pigs are out. Still no one responded to his comments.

While observing the crowds and speaking with the Fire Marshall I observed a young appearing black male later determined to be Martese Rashaad Johnson present what appeared to be Identification to who I believed to be a bouncer later told was an owner. I was standing approximately 10 yards from this interaction. I observed this "owner" place the Id in his right hand and hold it out toward the exit area of the front of the establishment. I then observed this same subject Martese Johnson snatch the Id from the owners hand in a quick and what appeared to be forceful way not gently removing it. I then observed Agent Miller make movement toward this exit point where it appeared Miller was bladed off from Mr. Johnson and I could see Millers lips moving but was not able to hear what he was saying. Mr. Johnson then took a small side step to move around Agent Miller and then I observed Agent Miller reach out and placed his hand on Mr. Johnson's right elbow. I then observed Mr. Johnson quickly jerk his arm from Agent Millers hand and continue walking. I then took a couple steps forward and came within feet of Mr. Johnson facing him placing my left hand out pointing behind Mr. Johnson I stated "The police officer behind you is trying to talk to you." Mr. Johnson looked up at me paused briefly at my chest area where my name and badge were present. I observed Mr. Johnson's eyes were glassy, I could also smell a strong odor of alcoholic beverages but at that time could not determine if it was from Mr. Johnson or just the people in the area. Mr. Johnson then attempted to turn toward the left and walk around or away to evade me when I reached out and grabbed his left arm creating a barrier so he could not continue to turn away from me and continue walking. As I placed my hand on his left arm Mr. Johnson immediately attempted to pull away. As I lost my grip on his arm I managed to gain his wrist and I stated "STOP POLICE." Immediately Mr. Johnson started jerking, spinning and pulling away from me in an attempt to break my grip. I recall a very brief struggle that only included Mr. Johnson's actions to break my grip before we quickly and accidentally fell to the ground. I did not have time nor did I attempt any type of offensive or defensive tactic to take Mr. Johnson to the ground. When we fell to the ground I remember my elbow striking what I believe was a metal grate, Mr. Johnson's arm and weight was on top of my right arm. I recall thinking I need to get up and get control of the situation and as I pushed up from the ground I still had Mr. Johnson's wrist where I was able to overpower him and place it in the small of his back and I placed my knee on his shoulder blade area. I was able to retrieve a pair of hand cuffs from my duty belt and place Mr. Johnson's left wrist in the handcuff securing it. I observed at the same time while cuffing Mr. Johnson that Agent Miller was on the ground with us and began struggling with Mr. Johnson for his right wrist. I began giving orders to Mr., Johnson to stop fighting, stop resisting. Mr., Johnson began screaming "YOU FUCKING RACIST" "LOOK WHAT YOU DID TO ME YOU FUCKING WHITE RACIST", "I GOTO UVA YOU RACIST" over and over again. During this time Mr. Johnson was able to look over his right shoulder where I was and I noticed a small gash on his hairline that had begun to bleed. I stated to Mr. Johnson to stop resisting and we have to get you secure before the EMT's can look at you they are on the way. Agent Miller continued to struggle for the right wrist during this entire time. I recall pain shooting through my elbow and at times feeling like it was numb. I continued to hold Mr. Johnson's wrist in the small of his back as he continued to resist us by pulling his arm away spinning on the ground and trying to roll over. I did not feel that I needed to increase the amount of force that I was using that I had enough control of Mr. Johnson that he could not run away or injure us. At no time did I nor did I observe anyone strike, punch, kick, knee, throw or slam Mr. Johnson during this altercation. As Agent Miller was able to gain some control of Mr. Johnson's right wrist and place it toward the small of his back I attempted to place the other cuff on it but Mr. Johnson was able to grab it with his left fingers trapping my right hand

fingers in the chain links. Mr. Johnson was able to overpower Agent Miller and get his wrist back out to the side of his body. During this incident I observed many people from the crowd yelling at us screaming they slammed him, his face is cut up, they beat him; get the fuck up off him. I observed many people holding their phones trying to record this incident. Mr. Johnson continued to resist us and continued his same statements of "YOU FUCKING RACIST, LOOK AT MY HEAD YOU WHITE RACIST."

I heard from the crowd of onlookers a male's voice saying calm down Martese although at the time I could not make out the name. I looked up at the gentleman who was a young black male and asked what is his name? He responded "Martese but everyone calls him Tese." I said thanks. I then began calling Mr. Johnson Martese and Tese trying to become more personal and in hopes of calming him. I then observed Agent Cielakie walk over and place a handcuff on the right wrist of Mr. Johnson and pull it back over to my hand cuff where we were able to lock the two pairs of hand cuffs together. Mr. Johnson continued to try and roll over and continued to kick his legs and feet. Agents Miller and Cielakie were able to control his legs and someone brought a pair of leg shackles over where they were placed on his ankles. Mr. Johnson seemed to calm down for a few moments and followed my instruction as to how I would roll him over on to his butt, place one foot under him and rolled him up. I then escorted him over to the awaiting ambulance and Mr. Johnson then became irrational and started his comments again toward the White male EMT that first tried to look at his injury. Mr. Johnson made a statement something to the effect of he was also racist. The EMT disappeared from my view and another female who appeared she may be Middle Eastern or Indian appeared and Mr. Johnson stated to her "Look what they did to me, you understand were both minorities." I continued to try and to calm Mr. Johnson and get him to have a seat so they could look at his injury after several minutes Mr. Johnson took a seat on the rear of the ambulance where they could visually see his injury [REDACTED]

[REDACTED] Agent Miller rode with Mr. Johnson in the ambulance and Agent Cielakie and I rode separately all responded to UVA hospital. Upon my arrival I observed Mr. Johnson was already in a waiting room in the ER as I was standing outside of the room approximately 15 feet away I could smell a strong odor of an alcoholic beverage coming from his person. [REDACTED]

[REDACTED] I did not speak with Mr. Johnson at the hospital nor have I spoke to him since. [REDACTED]

[REDACTED] SAC Cannon responded to the hospital where I met with him and explained to him the pain that I was having from my right elbow. SAC Cannon advised me that since I was already at the hospital I should go ahead and have it checked out. I then proceeded to the sign in area where I was signed into the hospital as a patient and placed in a waiting room. I was soon taken to the x-ray department where x-rays were taken of my right elbow which at the time was giving me the most pain. Eventually the doctor who was a white male and I believe shaven head or very thin on top. The doctor explained that there was no visible break or cracks in my elbow [REDACTED]

[REDACTED] This same doctor began telling me something to the effect that he hopes we can all learn something from this incident and can one day put this behind us with no animosities. SAC Cannon visited the room I was in several times during my visit explaining that RAC McKee (REGIONAL AGENT IN CHARGE) had stated what charges we could bring against Mr. Johnson and that those were the only charges we can bring. I also explained to SAC Cannon what I observed and what occurred, I was discharged from the hospital around 4am where I gave Agent Cielakie a ride back to the office and I then went to my house. I cleaned myself up changed clothes and reported back to the office where I wrote my initial reports.



ATTACHMENT No. 12



COMMONWEALTH OF VIRGINIA

DEPARTMENT OF STATE POLICE

June 24, 2015

TO: Special Agent John S. Cielakie

FROM: Captain Gary B. Payne

SUBJECT: Administrative Investigation/Review - Department of Alcoholic Beverage Control
Arrest Incident
Martese Rashaad Johnson

At the request of the Office of the Governor, the Virginia State Police, Internal Affairs Section, is conducting an administrative investigation/review of the arrest of Martese Rashaad Johnson on March 18, 2015, by Virginia Department of Alcoholic Beverage Control Special Agents. The arrest occurred on the sidewalk in front of the Trinity Irish Pub, located at 1505 University Avenue, in the city of Charlottesville, Virginia.

The purpose of this interview is to determine the circumstances that led to Johnson's detention, arrest, and injury, for administrative purposes. In conjunction with this interview, you will also be required to submit a written response.

ATTACHMENT No. 13



COMMONWEALTH of VIRGINIA


Department of Alcoholic Beverage Control

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FAX (804) 213-4411

WWW.ABC.VIRGINIA.GOV

To: Captain Gary B. Payne

From: Special Agent J.S. Cielakie 

Ref: Administrative Investigation/Review- ABC Arrest Incident of Martese Johnson

Date: June 29, 2015

On March 10, 2015, SAC Cannon, Special Agent Miller, and I met with [REDACTED] and [REDACTED] the owners of Trinity Irish Pub at the Regional Office. The purpose of this meeting was to go over numerous complaints of underage consumption, the over service to patrons, overcrowding of the establishment, and numerous other complaints that Agents have received at this location. [REDACTED] and [REDACTED] stated that they felt like they were singled out as a bar, and never knew what our expectations were of them. They were advised of the complaints and made aware that our presence would be out on March 17th. [REDACTED] stated he loves it when we come out and helps with problems at the establishment.

Later that day at a Regional Meeting held by SAC Cannon we were asked how many Irish bars we had in our territories. We were asked if we were going to work the weekend before St. Patrick's Day or the night of. All agents stated we would rather work the night of. We were not required to give an Operations Plan for our working, and all agents collectively decided to dress in full uniform. We did this do to the fact that we wanted everyone to know that we were police officers.

On March 17, 2015, Special Agents with the Charlottesville Region were working in the Charlottesville Area. The detail included working several locations that were celebrating Saint Patrick's Day events. The first location that we went to was the Jefferson Theatre on East Main Street at the Downtown Mall. Agents stayed there approximately 2 hours. After this, we left and went to the Corner Area of the City of Charlottesville. There were numerous other officers there including officers from the UVA Police Department, Charlottesville City Police Department, and one of the City of Charlottesville Fire Marshalls. It should be noted that Agent Cielakie contacted the Emergency Communications Center of Charlottesville City and the State Police in Appomattox to advise them that units were working. Agent Cielakie advised both ECC and Appomattox that Agents were in full uniform, that we were driving an unmarked silver Chevy Impala ABC Police Vehicle, the areas of which we were working, a contact phone number, unit numbers of Agents working, and also told them that Agents had local Charlottesville Radio and could be in immediate communication with ECC.

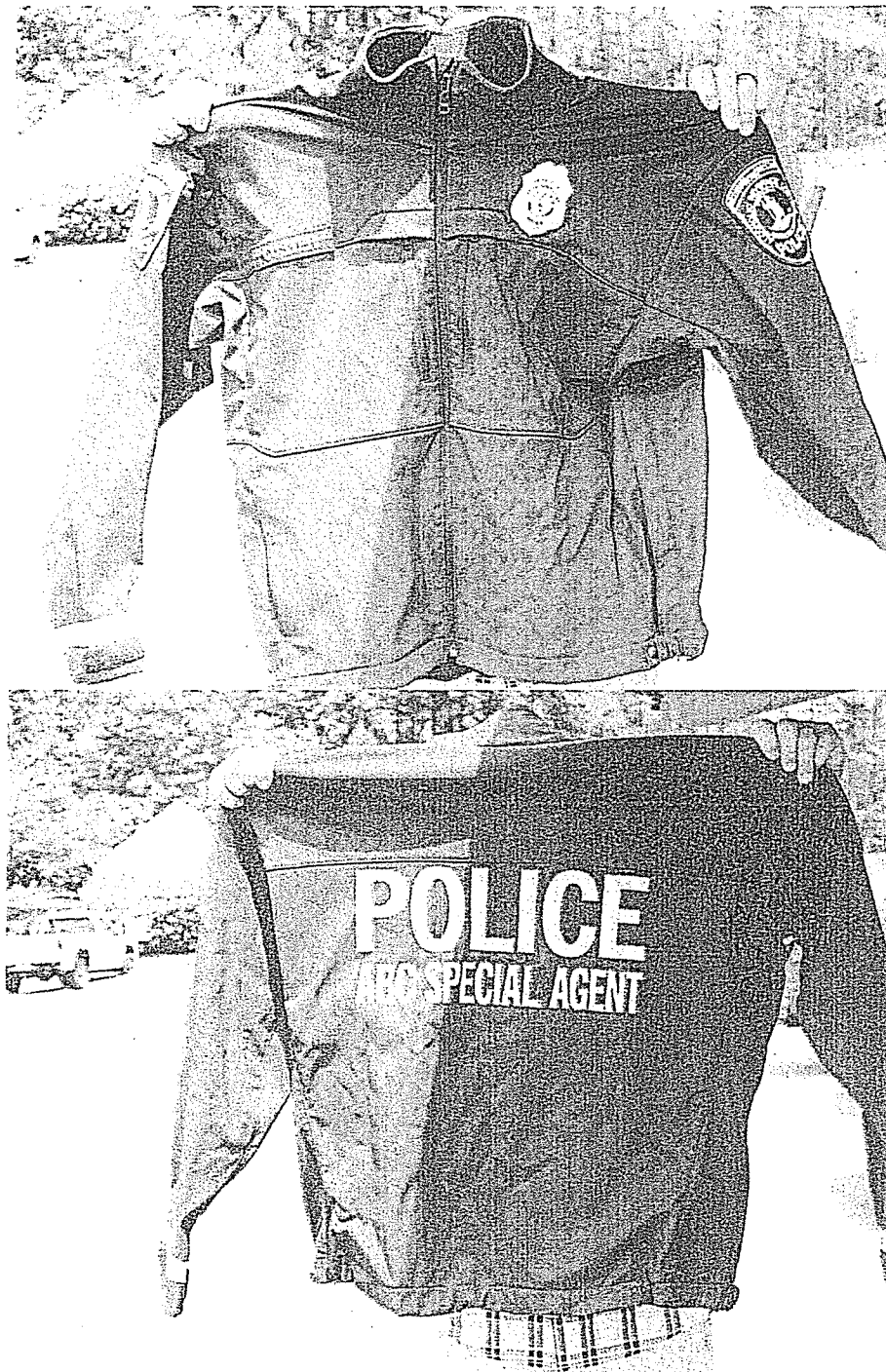
Handwritten signature/initials

While at the corner, the Charlottesville City Fire Marshall was going in all businesses and checking occupancy numbers. One of the locations that was extremely busy was Trinity Irish Pub. There was a very large crowd standing outside. They were pushing and shoving to get closer to the doors as the bouncers were only letting a small amount of people inside at a time. The crowd was getting so large that they were pushing the gated front patio area out towards the roadway. One of the owners, [REDACTED] came out and spoke to Agents and the Fire Marshall. Agent Cielakie advised [REDACTED] that Agents were not there "looking" for violations, but were concerned about the crowd that was out front. [REDACTED] told Agent Cielakie thank you, and then stated that he was glad we were there because it made his life easier when we were out. While watching the crowd, Agent Cielakie observed a youthful appearing black male that had a flat top hair cut walk up to [REDACTED] and produce some form of identification. [REDACTED] looked at the identification and then held it towards the exit shaking his head in the "no" fashion. The male then grabbed the identification out of [REDACTED]'s hands and walked towards the exit. At this time, Agent Miller began to walk towards the male. I asked him if he was going to check the identification and he stated that he was. I then began to talk with the Fire Marshall. I turned towards Agent Miller and saw the male pulling away from him and Agent Custer. Agent Custer had his left arm and Agent Miller had his right. They were headed in the direction of the College Inn. The male was actively resisting both Agents. While attempting to place the male under arrest, I observed Agent Custer trip and all three fall to the ground. When they fell, I observed the male hit his head on the brick walkway. I saw blood start to come from the male's head. At this time a huge crowd formed and began to shout racially motivated slurs making reference to recent Nationwide Media Events. Agent Cielakie immediately got on the Charlottesville Radio and advised ECC of Agents location, asked for more officers, and also called for a rescue squad to be enroute to the scene. Agent Custer was yelling at the male to stop resisting arrest the entire time he was trying to handcuff the male. I observed the male continue to actively fight and resist arrest. Agent Custer and Miller were able to get one handcuff on, but could not get the male's right arm in the cuff. Agent Cielakie then assisted Agent Custer with using another pair of handcuffs to place the subjects right arm in. Once handcuffed, the male continued to fight and resist. He was screaming racial slurs, "You Fucking Racist! You Fucking Racist!, I go to UVA! He stated that this was happening because he was black. The crowd continued to video and got a lot more aggressive. Once other Charlottesville and UVA Police arrived on scene Agent Cielakie was able to get a pair of shackles and assist Agent Miller with putting them on the male. The male continued to shout racial slurs at officers, rescue squad, and the crowd. The male was taken to UVA Hospital for treatment by ambulance. Agent Cielakie called SAC Cannon and advised him of the situation and requested him to come out. SAC Cannon stated that he would be enroute to the hospital.

This agent saw no officer punch, strike, kick, hit, or knee Martese. This officer never saw Agent Custer or Miller intentionally throw Martese to his head. Agents only acted with professionalism during a hard situation. It only appeared that this was a result of Agent Custer falling. During this night there was a very diverse crowd throughout the evening.

Once at the hospital, Agent Cielakie went inside and spoke with the male identified as Martese Johnson. Martese was attempting to deny treatment of his head because he stated that he did not have the money. Agent Cielakie spoke with Martese and advised him that he needed to get his head checked out and then told him the hospital could speak to him more in-depth information on payment, but all Agents cared about was making sure his head was treated. Martese agreed to be treated. Agent Cielakie waited with Agent Custer in a separate room who was being treated for his arm. Agent Miller was advised by SAC Cannon that our regional supervisor RAC Mike McKee told him that he was only allowed to get a Drunk in Public and no other warrants. Agents were

quite confused and frustrated with this, do to how unprofessional and absurd this was, but after further discussion with SAC Cannon, Agent Miller was able to obtain a warrant for Obstruction of Justice as well. It appeared that upper level supervision was attempting to control the warrants that were going to be issued. This agent believes that if Agent Miller would have had more discretion, he could have obtained an appropriate warrant for underage possession and resisting arrest as well. This report was written solely for the use of the State Police for their administrative investigation regarding the events of March 17-18th 2015.



ATTACHMENT No. 15



COMMONWEALTH OF VIRGINIA

DEPARTMENT OF STATE POLICE

June 24, 2015

TO: Special Agent Jared Miller

FROM: Captain Gary B. Payne

SUBJECT: Administrative Investigation/Review - Department of Alcoholic Beverage Control
Arrest Incident
Martese Rashaad Johnson

At the request of the Office of the Governor, the Virginia State Police, Internal Affairs Section, is conducting an administrative investigation/review of the arrest of Martese Rashaad Johnson on March 18, 2015, by Virginia Department of Alcoholic Beverage Control Special Agents. The arrest occurred on the sidewalk in front of the Trinity Irish Pub, located at 1505 University Avenue, in the city of Charlottesville, Virginia.

The purpose of this interview is to determine the circumstances that led to Johnson's detention, arrest, and injury, for administrative purposes. In conjunction with this interview, you will also be required to submit a written response.

ATTACHMENT No. 16



COMMONWEALTH of VIRGINIA

Department of Alcoholic Beverage Control

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To: Captain Gary B. Payne

From: Special Agent J.B. Miller

Ref: Administrative Investigation/Review- ABC Arrest Incident of Martese Johnson

Date: June 29, 2015

On March 10, 2015, SAC Cannon, Special Agent Cielakie, and I met with [REDACTED] and [REDACTED] the owners of Trinity Irish Pub, at the Charlottesville Regional Office. We had received several complaints of underage drinking, serving to intoxicated persons, and overcrowding at the establishment. I had recently informed [REDACTED] of three pending administrative charges I would be filing, and he felt as though VA ABC was "picking on" his establishment because they chose to appeal the last administrative charges of which they were found guilty. In response to this, I decided to set up a meeting that included SAC Cannon, so they could understand exactly what our expectations were. We encouraged them not to hesitate to reach out to us if they ever had any questions or concerns. We also informed them that we would be working on March 17th (Saint Patrick's Day) and would be stopping by their establishment to make sure everything under control, especially because it was an Irish themed establishment. [REDACTED] stated that he loved when ABC agents were out, because they kids would not try to get away with as much if we made our presence known.

After the meeting, I met with SAC Cannon, SA Cielakie, and SA Custer to discuss whether we were going to work on the weekend before Saint Patrick's Day or on Saint Patrick's Day itself. After deciding to work on March 17th, we discussed whether we were going to wear plain clothes or a full uniform. We decided that a full uniform would be better in regards to identifying us as police officers. Because it was not required by policy, we did not write up an Operations Plan.

On March 17th, 2015, around 5 or 6 PM, SA Cielakie, SA Custer, and I began our uniformed work in Charlottesville. We began by contacting the local and state dispatches to let them know we were working. We gave them our names, badge numbers, uniform description, vehicle descriptions, areas we would be working, and cell phone numbers. Earlier in the day, we received information that a concert at The Jefferson Theatre on E. Main Street may attract an underage crowd. During the approximately 2 hour period we spent there, SA Custer issued one summons, and SA Cielakie checked an ID brought to him by a bouncer. The ID turned out to be real and belonged to the person possessing it. After leaving The Jefferson Theatre, we went to The Corner, an area primarily on University Avenue, and frequented by

AMERICAN 1/17

University of Virginia students. While in route, I contacted Officer [REDACTED] a member of the Charlottesville Police Department, to see if he was working and if he wanted to meet us at The Corner. We drove by McGrady's Irish Pub on Preston Avenue, and then continued on to The Corner. Upon our arrival, I saw several officers from the UVA Police Department, a Charlottesville Fire Marshall, Officer [REDACTED] and at least one other Charlottesville Police Officer.

After speaking with these other officers, SA Cielakie, SA Custer, the Charlottesville Fire Marshall, and I walked to the front of Trinity Irish Pub (1505 University Avenue). It was established that the Fire Marshall was going to several locations on The Corner to check occupancy levels. All agents and the Fire Marshall entered Trinity Irish Pub and walked upstairs to check occupancy. It was crowded to the point that people could barely walk from one side of the room to the other. The Fire Marshall informed a bouncer that they were over occupancy and that no one else was allowed in. After exiting the establishment, the Fire Marshall and I walked down to Boylan Heights (102 14th Street NW) to check their occupancy. After walking upstairs and back down, the Fire Marshall also informed the bouncer that they were over occupancy and would not be allowed to allow anyone else in unless some of the people inside left. After this, the Fire Marshall and I walked back to Trinity Irish Pub to meet up with SA Cielakie and SA Custer. Upon arriving at Trinity Irish Pub, I saw the line to get in had gotten much longer, and it appeared that the crowd was beginning to push and shove in an attempt to get in. The crowd was very diverse in both race and ethnicity, and consisting mostly of college aged persons. [REDACTED] walked out and told us that he was glad that we were out and that we were going to make his job much easier.

Around 12:45 AM, I was watching the bouncers, as well as [REDACTED] (owner of Trinity Irish Pub), check IDs at the door. During one such interaction, I saw [REDACTED] look at a male's ID (later identified as Martese Johnson), and then give him his ID back and send him away. I began to approach Johnson, when SA Cielakie asked if I was going to check his ID. I told him that was my intention. As Johnson turned to walk away, I approached him and identified myself as a police officer, then asked to see his ID. At that time, I could see that he had bloodshot/glassy eyes. However, the only reason I initially approached Johnson was because I suspected he may have a borrowed or false identification. Johnson said something that I couldn't understand, and then begin walking away in a Northwest direction, towards The College Inn.

At that time, I placed my right hand on Johnson's right elbow, again identified myself as a police officer, and told him to stop and show me his ID. He shrugged his right arm away from me and continued walking. Then, I grabbed his arm and again identified myself as a police officer told him to stop because I needed to check his ID. When I grabbed his arm, he pulled away again, and as he did so, his coat began to come off. At the same time, Johnson began walking faster. This gave me the impression that he may attempt to flee. At the same time this was occurring, Special Agent Custer grabbed his left arm, identified him and me as police officers, and told him to stop. I saw Johnson attempt to pull away from SA Custer as well. Based on Johnson's actions, SA Custer and I attempted to take Johnson to the ground. Johnson began actively resisting, to the point that I started to lose my grip on his arm. I decided that based on his attempt to flee, it would be safer to escort Johnson to the ground before we attempted to handcuff him. Before we could safely escort Johnson to the ground, the struggle caused all three of us to fall to the ground. It felt as if someone tripped, and I was being pulled down to my left side as a result. I landed on my left hip area. At no time did the fall feel like it was intentional. Once on the ground, I began telling Johnson to stop resisting and to put his hands behind his back. Johnson ignored my commands and continued to try to pull away and get back on his feet. He was kicking out; however I felt it was more of an effort to get away than it was to kick Agent Custer and me. In an attempt to stop his attempts to get back up, I placed my knees over the backs of his legs, near his knees. He continued to try to get on his feet. During this time, I could see that Johnson had a laceration on his forehead. SA Custer was able to get his left hand in a handcuff, however, I was having a difficult time securing his legs and controlling his

right arm at the same time. Because of the struggle Johnson was putting up, I decided to place a second set of handcuffs on him instead of continuing to try to place only one set on him. Eventually, SA Custer, SA Cielakie, and I were able to place Johnson in both sets of handcuffs. Johnson, however, continued to try to pull away from us and get back on his feet. As all of this was going on, a large crowd began to gather around us, some filming us and others just screaming things at us. After what seemed like several minutes, Charlottesville Police, along with UVA Police, arrived on scene to assist with crowd control. Because Johnson was continuing to kick his feet, I was able to obtain leg shackles from one of the other officers and place them on Johnson.

From the time we went to the ground, throughout the entire incident, Johnson was screaming things at us, although I do not recall any specific statements. A few days later, after viewing videos of the incident, I saw he was calling us "fucking racists" and screaming "I go to UVA." While we were trying to secure Johnson, I could smell the strong odor of an alcoholic beverage, coming from his person. Eventually, we were able to get Johnson to stop resisting enough that we could get him on his feet to be checked out by the EMTs. While he was being checked out by the EMTs, Johnson remained very belligerent, and did not seem to be able to tell the difference of an EMT and a policer officer. After EMTs did an initial assessment of his condition, they put Johnson on a stretcher and moved him into the back of the ambulance. I got in the ambulance and sat behind Johnson, in the hope that he would not see me and become combative again. [REDACTED]

After arriving at the hospital, I began taking my initial notes of the incident. At some point, SAC Cannon arrived at the hospital and made contact with Johnson. SAC Cannon gave me Johnson's Illinois ID. After looking at the ID, I was able to determine that it was a valid ID, and that Johnson was only 20 years old. I began discussing with SAC Cannon what I would be charging Johnson with. I wanted to charge Johnson with Drunk in Public, Underage Possession of Alcohol, Obstruction of Justice, and Resisting Arrest. SAC Cannon contacted his supervisor, RAC McKee, and informed him of the incident. RAC McKee advised that for the night, Johnson should only be charged with Drunk in Public, and that the other charges could be discussed at a later time with the Charlottesville Commonwealth's Attorney. I told SAC Cannon that at the bare minimum, I would feel much more comfortable bringing at least the Obstruction of Justice charge, because of the injuries Johnson received as a result of the incident. SAC Cannon agreed. After Johnson was finished receiving treatment, he was released into my custody. I contacted the Charlottesville Police Department and arranged a transport van to the jail. SAC Cannon and I followed the van to the jail. While in the Magistrate's Office, Johnson interrupted me several times while I was attempting to give my probable cause statement to the Magistrate. He called me a liar, and cursed several times throughout my testimony. The longer we remained in the closed Magistrate's Office, the stronger the smell of alcohol became. I obtained warrants for Obstruction of Justice (18.2-460) and Drunk in Public (18.2-388).

This report was written solely for the use of the State Police for their administrative investigation regarding the events of March 17-18th 2015.



COMMONWEALTH OF VIRGINIA
DEPARTMENT OF STATE POLICE

June 24, 2015

TO: Special Agent in Charge Joseph L. Cannon
FROM: Captain Gary B. Payne
SUBJECT: Administrative Investigation/Review - Department of Alcoholic Beverage Control
Arrest Incident
Martese Rashaad Johnson

At the request of the Office of the Governor, the Virginia State Police, Internal Affairs Section, is conducting an administrative investigation/review of the arrest of Martese Rashaad Johnson on March 18, 2015, by Virginia Department of Alcoholic Beverage Control Special Agents. The arrest occurred on the sidewalk in front of the Trinity Irish Pub, located at 1505 University Avenue, in the city of Charlottesville, Virginia.

The purpose of this interview is to determine the circumstances that led to Johnson's detention, arrest, and injury, for administrative purposes. In conjunction with this interview, you will also be required to submit a written response.

ATTACHMENT No. 18



COMMONWEALTH of VIRGINIA

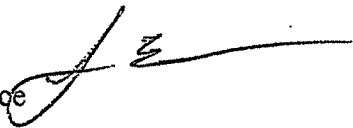
Department of Alcoholic Beverage Control

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June 30, 2015

TO: Captain Gary B. Payne
VSP Professional Standards

FROM: Special Agent in Charge Joseph L. Cannon
Virginia ABC Charlottesville Regional Office 

SUBJECT: Administrative Investigation / Review – Department of Alcoholic Beverage Control
Arrest Incident
Martese Rashaad Johnson

On March 6, 2015, I received an email from Regional Agent in Charge (RAC) Michael McKee, instructing all of the Special Agents in Charge (SAC's) in his Region to provide him with events planned surrounding the St. Patrick's Day Holiday. The deadline was set as March 11, 2015 and my response to his email is below:

March 11, 2015, 9:05 am

"Good morning,

I have identified 5 licensed establishments that will be having St. Patrick's Day Celebrations on May 17, 2015:
Trinity Irish Pub – UVA Corner Area
McGrady's Irish Pub – Charlottesville
Tin Whistle Irish Pub – Downtown Charlottesville
Tavern on the James - Scottsville
Molly's Irish Pub – Warrenton, Fauquier County

This was discussed during our Roll call yesterday and none of these events are large scale. All of the licensees have been contacted in reference to their planned activities and I will have at least two Agents working in the City of Charlottesville on March 17, 2015.

The two licensed establishments in Scottsville and Warrenton has never been a problem in the past and I don't expect any issues to take place this time. They both cater to an older crowd and they understand the ABC laws and regulations."

(A copy of this email was provided to Capt. Payne and Sgt. White on the day of my interview)

On March 10, 2015 at approximately 9:00 am, SA Sam Cielakie, Jared Miller and I met with the Owners of Trinity Irish Pub [REDACTED] and [REDACTED] in the Charlottesville Regional Office to discuss several concerns that they have had regarding the existing relationship between Virginia ABC and their establishment. Mr. [REDACTED]'s main concern dealt with the facts that they didn't feel they were properly notified of the Administrative Violations that took place surround the night of the UVA vs Miami Football game, they are unfairly being singled out / picked on and we are not trying to work with them. During the conversation I advised Mr. [REDACTED] that we are looking at all establishments where a pattern has been identified in dealing with

underage drinking, services to intoxicated patrons and knowing allow underage patron to frequent the premises. After a lengthy discussion I advised both men present that St. Patrick's Day is coming up and we will be working that night to include spending time on the UVA corner area. We ended the meeting on good terms with the expectation to provide training to the employees over the next few months and again right before the start of the fall semester.

Later that morning, I had a Roll call meeting with my team and the St. Patrick's Day operation was on the agenda. I identified the target establishments, discussed the uniform for the operation and that we would notify Albemarle/ Charlottesville/ UVA ECC prior to the start of the operation and at the conclusion by calling in on air, so everyone could hear that we were out working.

On March 17, 2015, I received a call from a concerned citizen advising me that there was a group performing at The Jefferson Theater, who is known for having a young following who would probably be drinking underage and using illicit drugs. So this establishment was added to our list for the evening. Throughout the day, I discussed the evening events with the Agents so everyone would be on the same page and know what was going on.

I didn't prepare an Ops Plan because I felt it didn't fit the criteria outlined in the General Order and this is what we would often do, go out at night and check establishments for criminal and administrative violations whether plain clothes or in uniform. I chose to wear the uniform because I wanted everyone to clearly know who we were. I later left the office around 5:30 pm.

On March 18, 2015 at approximately 12:55am I received a call from SA Cielakie advising me that an incident had taken place and the suspect had been injured on the UVA Corner area near Trinity. He advised me that he had called for assistance and a rescue squad and they were on their way.

At approximately 1:12 am, I called SA Cielakie to find out where they were located and he advised me that the suspect was being transported to the UVA ER.

At approximately 1:27 am, I arrived at the UVA ER located SA's Miller, Cielakie and Custer. SA Miller made the following statement to me:

While SA Custer and I was standing outside of Trinity watching the crowd and the bouncers checking ID's at the door, I saw [REDACTED] looking at an ID, shake his head and gave it back to a young black male who was later identified as Martese R. Johnson. The black male retrieved his ID and began walking down the side walk towards College Inn. I approached the suspect and could see his glassy bloodshot eyes and I asked to see his ID. The suspect jerked away so then grabbed his right arm in an attempt to get him to stop. SA Custer then approached the left side of the suspect grabbing that arm. In trying to gain control of the suspect, they all fell to the ground, where the suspect struck his head on the sidewalk. They continued to give verbal commands to the suspect to calm down and stop resisting. In trying to get the suspect handcuffed SA Cielakie came over and assisted in cuffing the suspect using a second pair of hand cuffs. A few minutes later several Charlottesville and UVA Police Officers arrived at the scene to assist with the crowd. The suspect was later transported to the UVA ER.

After talking to SA Miller to gather the facts of the case, I then met with the suspect Martese Johnson in the ER treatment room. Upon entering the room I could smell a strong odor of alcohol coming from Mr. Johnson as he sat on the bed still handcuffed. I identified myself as Joseph Cannon, Special Agent in Charge with Virginia ABC and I was the Supervisor for the area. At that time I showed him my credentials and gave him a business card. I told Mr. Johnson that I would probably be involved in conducting the investigation to determine what happened earlier tonight.

I then asked Mr. Johnson what happened to him and he replied:

"I went to Trinity to talk to my friend [REDACTED] who is a bouncer there, when a white male approached me asked for my ID, refused me entry and gave my ID back. As I walked away an officer grabbed me and threw me on the ground banging my head on a brick."

I followed up and asked if he knew who the person was that turned him away and he replied "an ABC Agent". My response was how you knew he was an ABC Agent, "he said he was ABC". At that time I advised Mr. Johnson that the only ABC Agents working were in uniform and he might have mistaken one of the owners as ABC. Mr. Johnson insisted that the person who checked his ID said he was with ABC. The interview continued and Mr. Johnson went on to say "I want to file a report, I want to know why the officer banged my head on a brick, I want to know who the officer is that did this to me, I'm going to sue the police department."

I asked Mr. Johnson if he had drank anything that night and he replied "two beers at my apartment with a few friends between 9:30 pm – 10:00 pm".

At that time I obtained some basic descriptive information from Mr. Johnson:

Martese Rashaad Johnson

DOB: [REDACTED] 1994

[REDACTED]
[REDACTED]
[REDACTED]

I then asked Mr. Johnson if I could take a few pictures of him, to document his appearance when I first arrived. At approximately 1:46 am I took six pictures of Mr. Johnson as he appeared when I first arrived, where his face contained a large amount of dry blood and all appeared to be coming from approximately a half inch gash in the center of his head near the hair line.

I then exited the examination room to allow the ER staff time to continue their medical treatment to him.

My observations of Mr. Johnson was that he had been drinking and was impaired just based on his mood, mannerisms and actions while I was in the room.

After leaving the room, I met with SA Cielakie and Custer to talk to them about the incident. SA Custer advised me that he had injured his elbow and knee during the fall, so I had him registered in the ER where he was treated and x-rays for his injuries. I took pictures of SA Custer's knee and he was later released from the ER.

At approximately 2:18 am, I returned to Mr. Johnson's room where they had cleaned up his face and you could clearly see the head wound. I took three more pictures of Mr. Johnson's face after he had been cleaned up by the ER staff.

At approximately 2:20 am I contacted RAC McKee and advised him of the incident stating that the suspect had a cut in the upper part of his head and SA Custer was being seen for his elbow and knee. I advised him of several charges that we were considering such as Underage Possession, Drunk in Public, Resisting Arrest and Obstruction of Justice along with a few others. I was advised to charge him with Drunk in Public, take him to jail and we can consult with the Commonwealth's Attorney for any additional charges.

At approximately 3:34 am, I again returned to Mr. Johnson's ER room, where I took two more pictures of the area that had been stitched up by the ER Staff. [REDACTED]

Mr. Johnson was then transported by the Charlottesville Police Department van to the Albemarle/Charlottesville Regional Jail while I drive SA Miller to the location.

SA Miller appeared before Magistrate and testified to the facts of the incident and warrants were issued for Drunk in Public and Obstruction of Justice. The two warrants were served on Mr. Johnson and he became upset saying that he didn't do anything and the Officer was lying. He was taken into the custody by one of the Jail Officer, who told him that if you blow zeros in the PBT, I'll release you right now, if not you will have to stay.

SA Miller and I left the Albemarle/Charlottesville Regional Jail and returned to the Charlottesville ABC Regional Office.

I took pictures of SA Millers whelp marks on his right forearm. Later that morning I reviewed and approved his Response to Active Resistance Report. My conclusion was that there was no Response to Active Resistance and his actions were Justified.

I met with SA Custer later that morning and took a picture of his elbow that appeared to have been swollen. I reviewed and approved his Response to Active Resistance Report. My conclusion was that there was no Response to Active Resistance and his actions were Justified.

In talking to SA John Cielakie, he stated that his role in the incident was minor because he was standing near the door with Charlottesville Fire Marshall [REDACTED]. After seeing the incident take place he assisted in handcuffing Mr. Johnson with an extra set of handcuffs. I was also told that also assisted in placing shackles on Mr. John after he continued to resist and kept kicking,

At approximately 1110 – 1130, I talked to [REDACTED] – Martese Johnson's mother on three separate occasions that morning. Ms. Johnson called my office as recommended by UVA [REDACTED] to obtain answers to her questions. While the conversations were brief she voiced her concerns and anger because of the incident and the emails, pictures and videos that she had been sent to her. I advised Ms. Johnson of the charges and she was upset about the Obstruction of Justice charge and hung up on me. She immediately called me back saying that she was upset and just couldn't understand the Obstruction Charge and I'm sure he was drunk hanging out with his friend. She hadn't heard from her son and was worried about him. I gave her my number and told her that her son had my business card if she needed to talk when she arrived in the area and the second call ended.

A few minutes later Ms. Johnson called back saying that she had just talked to her son and he told her that one of my Agents checked his ID and was questioning the zip code. I told her that my guys were in uniform and it was the Owner of Trinity who checked the ID. She said "my son isn't a liar, I'm on my way today and hung up on me.

At approximately 1:00 pm I talked to [REDACTED] Owner of Trinity Irish Pub to discuss what he saw happen earlier that morning. Mr. [REDACTED] stated that he asked the young black male who was later identified as "Martese R. Johnson" for his ID, he saw that it was an Illinois ID and asked what's your zip code and Johnson replied "60613", the zip code didn't match and Mr. [REDACTED] knew that was the zip to Wrigley Field, while the ID stated "60616". He then asked Johnson where did he go to school and he said "Kenwood Academy", which was still the wrong zip so Mr. [REDACTED] said 'I can't let you in, policy say no one under 21.

The above mentioned stated are based on my memory of the night in question and notes that I compiled during my conversations with the people involved and phone interviews.

Cannon, Joseph L. (ABC)

From: Cannon, Joseph L. (ABC)
Sent: Wednesday, March 11, 2015 9:05 AM
To: McKee, Michael (ABC)
Subject: RE: St Patrick's Day

Good morning,

I have identified 5 licensed establishments that will be having St. Patrick's Day Celebrations on May 17, 2015:

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Joseph L. Cannon | Special Agent in Charge, Charlottesville Regional Office| Virginia ABC
Bureau of Law Enforcement | 900 Natural Resources Drive, Ste. 700, Charlottesville, VA 22903
Office: (434) 977-2974 | Fax: (434) 977-4772 | joseph.cannon@abc.virginia.gov
Facebook and Twitter: Virginia ABC
Confidentiality Statement

From: McKee, Michael (ABC)
Sent: Friday, March 06, 2015 9:59 AM
To: Brown, Donnie W. (ABC); Baffuto, Steven M. (ABC); Cannon, Joseph L. (ABC); Johnson, Tiffany (ABC); Taylor, John (ABC)
Subject: St Patricks Day

SACs,

St. Patrick's Day is quickly approaching and we know that is a time of the year that may result in excessive irresponsible drinking. Please identify any problem areas and report to me your plan to address them. Because I believe some events will take place the weekend of the 14th, please have me the information to review by the 11th. This will allow us some time to prioritize and perhaps pull resources from other regions/units to assist in dealing with any large events.

I am looking for proactive approaches to these issues with a results centered outcome as our goal. As managers, we need to ensure that the agents have a clear understanding of the expectations of their roles and that they are equipped to accomplish these goals.

thanks

Michael T. McKee | Regional Agent in Charge, | Virginia ABC
Bureau of Law Enforcement | 20353 Timberlake Road Suite A Lynchburg, VA 24502
Office: (434) 200-9910 | Fax: (434) 582-5140 | michael.mckee@abc.virginia.gov
Facebook and Twitter: VirginiaABC
Confidentiality Statement

White, Craig P., Sgt.

From: Payne, Gary B., Captain
Sent: Wednesday, July 15, 2015 1:35 PM
To: White, Craig P., Sgt.
Subject: FW: Questions [IWOV-IWOVRIC.FID1409436]

From: Watkins, Daniel [<mailto:dwatkins@williamsmullen.com>]
Sent: Friday, July 10, 2015 11:23 AM
To: Payne, Gary B., Captain
Subject: RE: Questions [IWOV-IWOVRIC.FID1409436]

Mr. Payne-

Thank you for transmitting the questions you have for Mr. Johnson. After consideration, we decline to take part in any interview from the Virginia State Police or respond to the queries that you have posited.

Thank you,

Daniel

From: Payne, Gary B., Captain [<mailto:Gary.Payne@vsp.virginia.gov>]
Sent: Thursday, July 09, 2015 2:09 PM
To: Watkins, Daniel
Subject: Questions

Mr. Watkins.....I am faxing the questions for your review. Please note they are in draft form....and most of the questions were addressed in the criminal report, however, we are simply seeking clarification/expansion on some of Mr. Johnson's answers....considering we have completed initial interviews of the ABC agents. Thanks for your cooperation in this matter.

Gary Payne

Captain Gary B. Payne
Virginia State Police
Professional Standards Unit
(804) 674-8012

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