



7/12/10 (6)

TOWN OF ACTON
472 Main Street
Acton, Massachusetts, 01720
Telephone (978) 92-6611
Fax (978) 264-9630
c.joyce@acton-ma.gov

Steven L. Ledoux
Town Manager

July 6, 2010

Acton Convenience Store
Anthony Russo
465 Great Road
Acton, MA 01720

Change of time from 7:45 to 8:30 p.m.

Dear Mr. Russo:

In our letter of June 13 (attached), we had scheduled you to appear at the Board of Selectmen's meeting of July 12th at 7:45 p.m. regarding the May 25, 2010 alleged sale of alcohol to a person who was intoxicated.

Due to unforeseen circumstances, the Board will need to reschedule your appointment from 7:45 to 8:30 on July 12th to allow the Board and School Committee members to interview candidates to fill the unexpired term left by Jonathan Chinitz's resignation.

Please contact me to confirm your attendance at this Selectmen's Meeting.

Very truly yours,

Christine Joyce
Town Manager's Office

Cc: Chief Widmayer

Hand Delivered July 6, 2010

cc: Police Chief

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Steven L. Ledoux
Town Manager

June 14, 2010

Acton Convenience Store
Anthony Russo
365 Great Road
Acton, MA 01720

Dear Mr. Russo:

The Board of Selectmen is in receipt of a report from the Police Chief alleging a possible alcoholic beverage service violation at your Store. As you will see in the attached report, an intoxicated driver entered your store and bought wine.

The Selectmen consider this to be a serious violation of the responsibilities of a liquor license holder in the Town of Acton and have ordered a Hearing to determine what action, if any, they will take in this regard.

The Hearing is scheduled for 7:45 PM, on Monday, July 12, 2010 in Room 204 (Faulkner Hearing Room) at the Acton Town Hall. You are requested to appear before the Board at that time to show cause as to why the Selectmen should not take action with respect to your license.

With regard to the upcoming hearing, the Selectmen have specifically directed that, in addition to you, any individual (other than yourself) who may have been on duty and in charge at the time of the alleged May 25th violation be present and available for questioning by the Board.

Please phone me at (978) 929-6611 to confirm your July 12th 2010 hearing date.

Very truly yours,

Christine Joyce
Town Manager's Office

Cc: Police Chief

Hand Delivered June 14, 2010

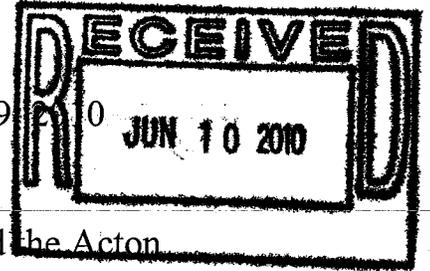
Acton Police Department

InterDepartmental Memo

From: Frank J. Widmayer, Chief of Police **Date:** June 9

To: Steve Ledoux, Town Manager

Subj: Alcohol Serving Violations at Crossroads Café and the Acton
Convenience Store



On May 25, 2010 at approximately 9:56 p.m. an officer from Acton PD stopped a vehicle that he observed operating in an unsafe manner. Prior to the stop he saw the operator purchase an alcoholic beverage at the Acton Convenience Store, 465 Great Road in Acton. Upon stopping the vehicle the officer observed that the operator was under the influence of alcohol. The operator told the officer that the last place she had been drinking alcohol was at Crossroads Restaurant, 405 Nagog Square, Acton.

I have included a redacted copy of the incident report submitted by the officer involved. This case is still in the court system and therefore I would prefer not to have any officer appear before the board at this time.

I recommend that the Board of Selectmen ask the managers of Crossroads and Acton Convenience to appear before them to discuss the violations.

You may also receive a notice on this case from the District Attorney's Office when the case is resolved at the district court. That will be a duplicate notice and will require no further action on the part of the Board of Selectmen.

A handwritten signature in black ink, appearing to read "Frank J. Widmayer III". The signature is written in a cursive style and is positioned above a horizontal line.

Frank J. Widmayer III
Chief of Police

Acton Police Department
P. O. Box 2212
371 Main Street
Acton, MA 01720
978-263-2911
Incident Report

Incident Number: 201000007876
File No: N/A
Dispatch Incident Number: 201000008867
Print Date: June 9, 2010
Printed By: fwidmayer

Incident Information											
Occurred On/From	Day of Week	Date	Time	Occurred To	Day of Week	Date	Time	Reported On	Date	Time	
	Tues	05/25/2010	9:56:05PM		Tues	05/25/2010	9:56:05PM	→	5/25/2010	9:56:05PM	
Reported As MVS [REDACTED]/Arrest				Incident Type - Primary OUI Alcohol or Drugs				Arresting Officer Patrol Officer John Collins			
Incident Address 291 GREAT RD, ACTON, MA 01720							Reporting Officer Patrol Officer John Collins				
Sector NOR		Stat. Area North Precinct Map E5		Sub Stat. Area		Census Tract		Landmark			
Business Name N/A						Incident Types - Other Motor Vehicle Violation					

Associated Persons Summary							
Type	Name (Last, First, MI)	Date of Birth	Sex	Home Phone #	Cell Phone #	Work Phone #	
Arrested	[REDACTED]	1953	F	(978) [REDACTED]	N/A	N/A	
Address:		[REDACTED] ACTON, MA 01720					

Associated Businesses Summary			
Type	Name	Primary Phone #	Secondary Phone #
Other	CROSSROADS RESTAURANT	() 263-9733	N/A
Address: 405 NAGOG SQUARE, Acton, MA 01720			
Other	SCOTT MOTORS	N/A	N/A
Address: 4 EASTERN RD, ACTON, MA 01720			

Involved Officers			
Officer Title	Officer Name	Officer Type	Division
Patrol Officer	John Collins	Reporting Officer	Acton Police Department
Patrol Officer	John Collins	Responding Officer	Acton Police Department
Patrol Officer	Jesse Osterhoudt	Responding Officer	Acton Police Department

No Involved Officers Data Available for Incident #: 201000007876

IBR/UCR Offenses					
Offense Number	IBR Type	Chapter	Section	Statute ID / IBR Type Description	Counts
1	90D	90	24	90/24/K / Driving Under the Influence	

Arrest Offenses					
Seq #	Chapter	Section	Name (Last, First, MI)	Description of Offense	Counts
1	89	4A	[REDACTED]	Marked Lanes Violation	1
2	90	24	[REDACTED]	OUI Liquor, 2nd Offense	1

Arrestee Seq. # 1											
Suspect Type		Suspect Name			Alias/Nickname		Occupation		Probation Central File		SSN
Named		[REDACTED]			N/A		[REDACTED] Consultant		N/A		N/A
Date of Birth	Age	Sex	Race	Ethnicity	Skin Tone	Height	Weight	Eye Color	Hair Color		
[REDACTED] 1953	57	Female	Caucasian	Not Hispanic	Fair	63.00	130	Blue	Red or Strawb		
Scars / Marks / Tattoos / Other Physical Characteristics: No Physical Characteristic Data Reported											

Acton Police Department

P. O. Box 2212

371 Main Street

Acton, MA 01720

978-263-2911

Incident Report

Incident Number: 2010000007876

File No: N/A

Dispatch Incident Number: 2010000008867

Print Date: June 9, 2010

Printed By: fwidmayer

Citations					
Citation No	Code	Date	Status	Statute	Description
M9307530	Arrest	05/25/2010 22:30	Open	89/4A	Marked Lanes Violation
M9307530	Arrest	05/25/2010 22:30	Open	90/24/K	OUI Liquor, 2nd Offense

Incident Report

Narratives for Incident Number 201000007876 ? Yes

Other Narratives not authorized for print? None

Narratives this user authorized to print:

Narrative by: Patrol Officer John Collins Division: Acton Police Department

Date & Time	Narrative Description	Entered by	Status	Reviewed by	Last Edit Date
05/26/2010 00:04	OUI Liquor 2nd Offense	Patrol Officer John Collins	Open		06/02/2010

At the above time and date while working my 5PM to 1AM shift in marked cruiser #25 in complete duty uniform I was parked at 465 Great Rd. monitoring traffic. All roadways mentioned in this report are public ways in the town of Acton. 465 Great Rd. is currently the address of Acton Convenience. While parked there, I observed a vehicle traveling east on Great Rd. when it braked suddenly at the first entrance to the store then continued to the second entrance then entered. There was a vehicle directly behind this vehicle and had to brake hard in order to possibly prevent a collision. The first vehicle then entered the parking lot then parked. There was only one other vehicle parked in the lot at this time and it was located on the far side of the lot.

I observed a female operator exit the vehicle then enter the store. A short time later the female exited the store carrying a 4 pack of Sutter Home Wine, I knew this because the wine was un packaged meaning it was not inside a bag. When she got into her vehicle, she backed out of the spot even though she could have easily pulled out since she was the only vehicle parked within the spaces. At this point, I saw what looked like a snow ski or board of wood hanging vertical obstructing the license plate. I immediately pulled out directly behind the vehicle to possibly see what was obstructing the plate. As I got closer to the vehicle I realized it was the spoiler to the car and it looked to be dislodged or broken from the car. While I was looking at the spoiler, the vehicle crossed over the double yellow line. I continued to follow the vehicle for approximately one mile and within that one mile the vehicle crossed over the double yellow line twice more and drove over the fog line once. The vehicle also did not keep a continuing speed of 40 MPH which is the posted speed limit. The speed fluctuated from 30 MPH to a speed of 50 MPH at one point. I could only get a partial MA REG# of 39 and 3 do to the spoiler obstructing the plate. At this time I performed a motor vehicle stop.

I illuminated my emergency lights and engaged my siren attempting to stop the vehicle, my side mounted spot light was also illuminated. The vehicle first turned on the left directional then continued for another 50 to 60 feet and then pulled to the right shoulder and stopped. I radioed to dispatch with my location, Great Rd. at Davis Rd. and exited my cruiser. I approached the drivers side window, which was down at this time and asked the driver for license and registration. As the driver attempted to get both items, I walked to the front of the vehicle getting the plate. I radioed to dispatch the plate, MA REG# [redacted] a fixed to the front bumper. I then returned to the drivers side window where the operator was still attempting to get her license out of the wallet. At some point the wallet was handed to me and I got the license out for the driver. I could detect a strong odor of alcohol present while the window was down. She was identified as [redacted] D.O.B. [redacted] 53, [redacted] then handed me the registration to the vehicle. I then asked [redacted] what happened to her rear spoiler, she stated something about the garage door not being totally up when she decided to pull out. I did not understand actually how the spoiler was damaged mainly because [redacted] stopped attempting to explain it to me. While speaking with [redacted] I could see her eyes and both are blood shot red and glassy. At this point I recognized [redacted] from a prior motor vehicle stop in which Officer Joachim arrested her for OUI a couple of months back. I asked her if she was the same person and she stated yes. I asked [redacted] if she had anything to drink and she stated "yes, I had two and a half glasses of wine". I asked where and she stated "at crossroads with my friend, I just left there". I could see in plain view the four pack of Sutter Home wine sitting on the passenger seat. I asked [redacted] if she had any open container of alcohol inside the vehicle and she stated "no". Officer Osterhoudt arrived and assisted with the investigation. I then instructed [redacted] to sit in her vehicle while I returned to my cruiser with her information. I informed Officer Osterhoudt that I will ask [redacted] to perform field sobriety test to determine whether or not she can operate a vehicle safely. I shut off my emergency lights only leaving my over head take down lights and spot light on. I returned to [redacted] vehicle and told her that I will be having her perform these tests, at this time [redacted] stated "I just want to leave, I'll walk home and leave my car here". I instructed her to walk over in between my cruiser and her vehicle where the ground was dry, flat and free of any debris.

[redacted] was asked by this officer her level of education and she stated two bachelors degrees. While speaking with her, she was unsteady on her feet and swaying back and fourth. [redacted] was also asked if she had any physical disabilities that would hinder her from performing these tests, and again she stated "no". The first test I gave [redacted] was to re sight the alphabet from "A" to "Z" without singing it, I asked if she understood and she said "yes".

1.) Alphabet Test

[redacted] started the test with the letter "A" stopping at "J"; restarting at "A" again and stopping at "F"; restarting for a third time at "A" stopping at "R" then saying "X,U,W Blah, Blah, Blah I know the [redacted] alphabet for god sake". [redacted] failed this test.

2.) Countdown 68 to 53

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Incident Report

Incident Number: 201000007876

File No: N/A

Dispatch Incident Number: 201000008867

Print Date: June 9, 2010

Printed By: fwidmayer

Narrative by: Patrol Officer John Collins Division: Acton Police Department (continued)

Date & Time	Narrative Description	Entered by	Status	Reviewed by	Last Edit Date
05/26/2010 00:04	OUI Liquor 2nd Offense	Patrol Officer John Collins	Open		06/02/2010

[REDACTED] was asked to count backwards from the number 68 ending with the number 53. I asked if she understood these instructions and she stated "yes". [REDACTED] started with the number 68, getting to the number 60 then repeating 60 again. She continued to count past 53 stopping at the number 47 and asking me if this was the number she wanted me to stop at. I asked her if that was the number I instructed her to stop at and she stated "I don't remember". [REDACTED] failed this test.

3.) One Leg Stand

I now explained and demonstrated the one leg stand to [REDACTED] and asked her if she understood or if she had any questions. [REDACTED] stated she understood and did not have any questions. [REDACTED] began to raise her right leg, bending the leg at the knee not keeping her foot approximately six inches off the ground (Clue 1). [REDACTED] began to sway while balancing (Clue 2). [REDACTED] arms did not remain at her side (Clue 3). [REDACTED] also touched the ground on count number 3, 6, 9, 12, 15, 20. (Clue 4). I decided that for her safety and my training and experience to terminate this test as I did not want [REDACTED] to fall on the ground and possibly become injured as a result. [REDACTED] failed this test.

4.) Horizontal Gaze Nystagmus

I informed [REDACTED] that I will be performing Horizontal Gaze Nystagmus and I needed her to follow the tip of my pen with her eyes only. I again asked her if she understood my instructions and she stated "yes". While performing the test, I detected a lack of smooth pursuit in both eyes (Clue 1 & 2). There was distinct nystagmus at maximum deviation in both eyes (Clue 3 & 4) along with onset of nystagmus prior to 45 degrees in both eyes (Clue 5 & 6). [REDACTED] failed this test.

At this point I informed [REDACTED] that she was being placed under arrest for operating under the influence of alcohol. [REDACTED] began to get very vocal, yelling at both Officer Osterhoudt and myself. Officer Osterhoudt then grabbed her only because she was trying or attempting to pull away. I then placed handcuffs on her (DL) and placed her in the rear of my cruiser. Officer Osterhoudt stood by for Scott's tow company.

I transported [REDACTED] back to the PSF for booking. While in the cruiser I read Miranda Waring to [REDACTED] and there was a strong odor of alcohol present that was not present prior to [REDACTED] being there. Sgt. Cogan and Sgt. Lawton were present for booking. [REDACTED] was booked under Acton's policies and procedures. [REDACTED] was offered the chemical test and accepted. [REDACTED] concentration of alcohol in her breath is 0.13%.

[REDACTED] was charged with the following:

90/24/K - OUI Liquor, 2nd Offense
89/4/A - Marked Lanes Violation

[REDACTED] is a 56 year old white female; approximately 130 lbs; 5'3" with blonde hair and blue eyes.

Respectfully Submitted

Ptl Officer John Collins #99
Acton Police Department

Signature - Reporting Officer

Signature - Reviewing Officer

Incident Dispatcher Remarks:

Create User ID: system

Date & Time

06/02/2010 00:37:24

99JC stopped ma pc [REDACTED] 120JO to assist. One under arrest. Scott's to tow. 150435-15046.9