

5/5/14 020 (1)



TOWN OF ACTON **FILE COPY**  
472 Main Street  
Acton, Massachusetts, 01720  
Telephone (978) 929-6611  
[Sledoux@acton-ma.gov](mailto:Sledoux@acton-ma.gov)  
Fax (978) 929-6350

**Steven L. Ledoux**  
Town Manager

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April 7, 2014

Mr. Raymond Cheng, Manager  
Makaha Restaurant  
255 Great Road  
Acton, MA 01720

RE: Makaha Restaurant Alleged Over Serving

Dear Mr. Cheng:

Enclosed please find materials naming the Makaha as the point of service prior to a patron of the bar being put into Protective Custody by the Acton Police Department on March 29, 2014 at 4:59 p.m.

The Selectmen are very disturbed that they received this notice of alleged over service at the Makaha. The Board has asked that Mr. Cheng and anyone who may have been on duty and in charge at the time of the alleged March 29th violation be present and available for questioning by the Board of Selectmen during their May 5<sup>th</sup> meeting.

You have been scheduled to appear at the May 5<sup>th</sup> Selectmen's Meeting at 7:25 P.M. in Room 204 to discuss this issue.

Please call me to confirm your attendance at this meeting.

Very truly yours,  
  
Christine Joyce  
Executive Assistant  
Town Manager's Office

Cc: Makaha File

**Lisa Tomyl**

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**From:** Frank Widmayer  
**Sent:** Friday, April 04, 2014 1:42 PM  
**To:** Manager Department  
**Subject:** Makaha Over-serving Incident  
**Attachments:** Makaha Complaint April 2014 Redacted.pdf



Steve,

I am forwarding a report of a disturbance incident that appears to be related to over-serving of alcohol by the Makaha staff. The management of the Makaha has been notified that we are filing this request for a hearing and they were told to preserve any evidence in the case such as bar tabs and any video that may exist.

I recommend that the Board of Selectmen call the management of the Makaha in for a hearing to discuss this incident.

Regards,  
Frank

Frank J. Widmayer III  
Chief of Police  
978-263-2911



**ACTON POLICE DEPARTMENT  
INTERDEPARTMENTAL  
COMMUNICATIONS**

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To: Deputy Chief Richard Burrows  
From: Lieutenant Raymond P. Grey  
Subject: **Liquor License Violation (Makaha Restaurant)**  
Date: April 1, 2014

On 3-29-14 at 4:59 PM a 911 call was received regarding a disturbance/fight in the bar area at the Makaha Restaurant located at 255 Great Road. Upon the officers arrival they observed a subject being held down on the sidewalk in front of the restaurant.

After speaking with participants and witnesses it was learned that a group of friends met in the bar section of the restaurant to watch a hockey game. During this 4 ½ hour period several parties within the group started arguing among themselves. Just prior to the 911 call being placed one subject became extremely violent and started punching several others in the group.

When it was apparent that the group could not control the situation and the disturbance was escalating two off-duty State Police Officers who were having dinner intervened. They were able to escort the subject outside the building. Even after identifying themselves to the subject he continued to fight and had to be taken to the ground.

While speaking with the subject, officers found him to be highly intoxicated and placed him under protective custody. At the police station he was processed by Sergeant Daniel Silva and elected to take a breath test. The subject had a breath alcohol content of .13%.

At my request, Sergeant Silva made additional inquiries. The subject stated he was at the bar for over 4 hours. During this period he consumed 5 beers. He did inform Sergeant Silva that he had driven a vehicle to the bar but had not consumed any alcohol prior to arriving.

**Findings:**

It is apparent to me that the staff at the Makaha should have monitored the group more closely to recognize the signs and symptom of intoxication. Proper monitoring prevents over serving.

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



Incident Number: 201400004623  
File No: N/A  
Dispatch Incident Number: 201400005195  
Print Date: March 29, 2014  
Printed By: rgrey

# Incident Report

## Incident Information

Occurred On/From	Day of Week Sat	Date 03/29/2014	Time 4:59:39PM	Occurred To	Day of Week Sat	Date 03/29/2014	Time 4:59:39PM	Reported On →	Date 3/29/2014	Time 4:59:39PM
Reported As report of a disturbance in the bar			Incident Type - Primary Disturbance			Arresting Officer Patrol Officer Douglas Mahoney				
Incident Address 255 GREAT RD, Acton, MA 01720						Reporting Officer Patrol Officer Douglas Mahoney				
Sector NOR		Stat. Area North Precinct Map E5		Sub Stat. Area		Census Tract		Landmark		
Business Name MAKAHA RESTAURANT				Incident Types - Other						

## Associated Persons Summary

Type	Name (Last, First, MI)	Date of Birth	Sex	Home Phone #	Cell Phone #	Work Phone #
Arrested	[REDACTED]	[REDACTED]	M	(978) [REDACTED]	N/A	N/A
Address: ARLINGTON STREET, ACTON, MA 01720-2504						
Victim	[REDACTED]	[REDACTED]	M	(978) [REDACTED]	(978) [REDACTED]	N/A
Address: BULETTE RD, ACTON, MA 01720						

## Associated Businesses Summary

Type	Name	Primary Phone #	Secondary Phone #
Caller	MAKAHA RESTAURANT	( ) 263-3371	( ) 259-9101
Address: 255 GREAT RD, Acton, MA 01720			

## Involved Officers

Officer Title	Officer Name	Officer Type	Division
Sergeant	Daniel J Silva	Responding Officer	Acton Police Department
Patrol Officer	Ana Dapkis	Responding Officer	Acton Police Department
Patrol Officer	Douglas Mahoney	Reporting Officer	Acton Police Department
Patrol Officer	Douglas Mahoney	Responding Officer	Acton Police Department

No Involved Officers Data Available for Incident #: 201400004623

## Arrestee Seq. # 1

Suspect Type	Suspect Name		Alias/Nickname	Occupation	Probation Central File	SSN			
Named	[REDACTED]		N/A	N/A	N/A	N/A			
Date of Birth	Age	Sex	Race	Ethnicity	Skin Tone	Height	Weight	Eye Color	Hair Color
[REDACTED]	49	Male	Caucasian	Not Hispanic	N/A	72.00	N/A	Hazel	Black
Scars / Marks / Tattoos / Other Physical Characteristics:									
No Physical Characteristic Data Reported									

## Victims

Victim Type	Victim Name	Sex	Race	Ethnic Origin	Hospital Destination	Transport Description
N/A	[REDACTED]	Male	Caucasian	Not Hispanic	N/A	N/A

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## Incident Report

Narratives for Incident Number 201400004623 ? Yes

Other Narratives not authorized for print? None

Narratives this user authorized to print:

Narrative by: Patrol Officer Douglas Mahoney Division: Acton Police Department

<u>Date &amp; Time</u>	<u>Narrative Description</u>	<u>Entered by</u>	<u>Status</u>	<u>Reviewed by</u>	<u>Last Edit Date</u>
03/29/2014 18:33		Patrol Officer Douglas Mahoney	Open		03/29/2014

On March 29, 2014 I, Officer Douglas Mahoney, was on routine patrol working the 3-11 shift in marked cruiser #23. At approximately 5:00 PM Officer Dapkas and I were dispatched to the Makaha restaurant for an altercation between customers in the bar area.

Upon arrival, Sergeant Silva and Officer Dapkas were on scene speaking to the parties involved. I approached a male sitting on the ground next to the front door who identified himself as Peter [REDACTED] (D.O.B. [REDACTED]) with a Massachusetts driver's license. I asked Peter what had happened. Peter stated that he was in the bar with about eight of his friends watching the Bruins game. As Peter spoke, he was slurring his speech and I could detect an odor of an alcoholic beverage on his breath. Peter's eyes also appeared to be bloodshot and glossy. Peter stated that he and his friends were joking around and yelling at each other in the bar. He stated that the next thing he knew, he was grabbed and brought outside and thrown to the ground. I observed a small cut on Peter's left hand as well as a small cut above Peter's left eyebrow (see booking photos). I asked Peter how long he had been at the bar and how much he had to drink. He stated he had been there since the start of the Bruins game which was at 12:30 PM (approximately 4 ½ hours prior). Peter also stated that he had consumed approximately 5 beers during that time.

I then spoke to Peter [REDACTED] and James [REDACTED]. They informed me that they observed Peter and his friends in the bar yelling at each other and having a verbal argument. Both parties stated that Peter became aggressive and began striking his friends with his fists. Both Mr. [REDACTED] and Mr. [REDACTED] intervened and attempted to break up the altercation, stating that they were off duty State Troopers. Mr. [REDACTED] and Mr. [REDACTED] had the employees of the Makaha call the police and brought Peter outside to break up the altercation. Mr. [REDACTED] stated that outside Peter became aggressive and attempted to push him. Mr. [REDACTED] and Mr. [REDACTED] stated that took Peter to the ground to restrain him and wait for the Acton police to arrive. They stated that all the injuries sustained by Peter were a result of him being restrained while on the ground. Mr. [REDACTED] and Mr. [REDACTED] were confirmed to be State Troopers.

Keith [REDACTED] (D.O.B. [REDACTED]), a friend of Peter's stated that they were in the bar watching the Bruins game. He stated that they were giving each other a hard time when Peter became aggressive and started striking his friends at the bar. Keith stated that at one point he was struck by Peter as well. Peter was then taken outside by Mr. [REDACTED] and Mr. [REDACTED] and restrained until the Acton police arrived. Keith stated that the other members who Peter was assaultive towards had left the establishment. All members involved did not want to take charges out on Peter.

Peter [REDACTED] was placed into protective custody. He was handcuffed behind his back (double locked) and transported by me to the PSF for booking. Once at the PSF, Sergeant Silva booked Peter according to policy. Sergeant Silva had Acton fire respond to the PSF to attend to the cuts on Peter's forehead, hand, and both knees. Peter chose not to be transported to Emerson Hospital. Peter's blood alcohol content was a .13%. Peter was placed in cell #1 to wait to be released to his wife. Peter's wife arrived a short time later.

Respectfully Submitted,  
Officer Douglas Mahoney #136

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



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## Incident Report

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\_\_\_\_\_  
*Signature - Reporting Officer*

\_\_\_\_\_  
*Signature - Reviewing Officer*

.....  
**Incident Dispatcher Remarks:**

**Create User ID: system**

Date & Time

03/29/2014 17:29:05

36/DM35AD to the above for a report of a disturbance in the bar. 36DM returned with one under protective custody. See report.

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## Ray Grey

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**From:** Dan Silva  
**Sent:** Saturday, March 29, 2014 9:27 PM  
**To:** Ray Grey  
**Cc:** Dan Silva  
**Subject:** APD Incident #2014-4623

LT. Grey

Back at the PSF I had an opportunity to speak with Peter [REDACTED] [REDACTED] stated that today he filed his income tax and then went to the Makaha to meet some friends to watch the Bruins game. The game started at 12:30 hrs and [REDACTED] stated that he was in the bar for approximately 4 ½ hours. I asked [REDACTED] how much and what kind of alcoholic beverage he had consumed and he reported that he had FIVE (5) beers in that time frame. A breath test was conducted with the Alcotest 9510 and [REDACTED] registered a breath alcohol of 0.13%  
[REDACTED] reported that he had not had any alcoholic beverage prior to arriving at the Makaha this afternoon.

Respectfully  
SGT Daniel Silva

Daniel J. Silva  
Patrol Sergeant #75DS  
Acton Police Department  
Acton, MA 01720



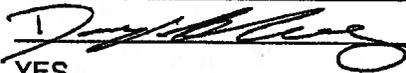
**Massachusetts Office of Alcohol Testing  
BATS - Completion Record**

Acton PD

Test Date:	<u>03/29/2014</u>	Seq. Test #:	<u>124</u>
Dept. Case #:	<u>20144623</u>	Citation #:	<u>-</u>
Model #:	<u>ALCOTEST 9510</u>	Firmware:	<u>8322232 0.7.1</u>
Serial #:	<u>ARBK-0078</u>	License #:	<u>[REDACTED]</u>
Date of Arrest:	<u>03/29/2014</u>	License State:	<u>MASSACHUSETTS</u>
Arrest Town:	<u>ACTON</u>	Last Name:	<u>[REDACTED]</u>
Test Type:	<u>PROTECTIVE CUSTODY</u>	First Name, MI:	<u>PETER, J</u>
Test Result:	<u>0.13 %BAC</u>	D. O. B.:	<u>[REDACTED]</u>

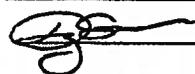
**Breath Test Sequence Details**

Function	Result %BAC	Time HH:MM:SS	Volume Liters (L)	Duration Seconds (s)
Air Blank Test	0.000	17:49:51		
Subject Test 1	0.147	17:50:24	2.3L	9.2s
Air Blank Test	0.000	17:52:56		
Calibration Check	0.078	17:53:21		
Air Blank Test	0.000	17:55:04		
Subject Test 2	0.132	17:55:43	2.1L	8.5s
Air Blank Test	0.000	17:57:03		

PC Officer's Name: DOUG MAHONEY  
PC Officer Signature:   
Observed Subject 15 Minutes: YES

**Breath Test Operator Certification**

The Breath Test Operator was certified at the time the breath test was administered.

Operator:	<u>DAN J. SILVA</u>	Certification Begins	<u>06/27/2011</u>	Certification Expires	<u>06/27/2014</u>
Signature:	<u></u>	Signature Date:	<u>03/29/2014</u>		