



ACTON POLICE DEPARTMENT
INTERDEPARTMENTAL
COMMUNICATIONS

To: Chief Widmayer
From: Lt. J. Cogan 
Re:  OUI from Makaha
Date: April 21, 2015

Chief, as you requested I visited the Makaha Restaurant on Tuesday April 21, 2015 at approximately 2:00PM. While there I spoke to the Manager on duty Bill Wong who told me he only works on Tuesdays. I explained to him the reason for my visit was a result of an OUI arrest the Acton Police had made on Sunday evening April 19th at approximately 8:30PM, of a person who was reported to be drinking at the Makaha just prior to being arrested. I provided the name and showed a picture of the subject that was arrested and requested he preserve any receipts or video they may have from Sunday evening April 19, 2015.

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



Incident Number: 201500007531
File No: N/A
Dispatch Incident Number: 201500008326
Print Date: April 21, 2015
Printed By: frentschler

Incident Information

Occurred On/From	Day of Week	Date	Time	Occurred To	Day of Week	Date	Time	Reported On	Date	Time
	Sun	04/19/2015	8:29:08PM		Sun	04/19/2015	8:29:08PM	→	4/19/2015	8:29:08PM
Reported As			Incident Type - Primary			Arresting Officer				
RI 103966 P:007531			Motor Vehicle Violation			Patrol Officer Daniel Holway				
Incident Address						Reporting Officer				
126 GREAT RD, ACTON, MA 01720						Patrol Officer Daniel Holway				
Sector		Stat. Area		Sub Stat. Area		Census Tract		Landmark		
CEN		South Precinct Map G4								
Business Name				Incident Types - Other						
N/A										

Dispatch Timings

Dispatched	Date	Time	First Arrival	Date	Time	Last Clear	Date	Time
	04/19/2015	20:29		04/19/2015	20:29		04/19/2015	21:01

Associated Persons Summary

Type	Name (Last, First, MI)	Date of Birth	Sex	Home Phone #	Cell Phone #	Work Phone #
Operator	[REDACTED]	[REDACTED]	M	N/A	N/A	N/A
Address: [REDACTED]						

Involved Officers

Officer Title	Officer Name	Officer Type	Division
Patrol Officer	Scott C Krug	Responding Officer	Acton Police Department
Patrol Officer	Daniel Holway	Reporting Officer	Acton Police Department
Patrol Officer	Daniel Holway	Responding Officer	Acton Police Department
N/A	K-9 Miso Miso	Responding Officer	Acton Police Department

No Involved Officers Data Available for Incident #: 201500007531

Arrest Offenses

Seq #	Chapter	Section	Name (Last, First, MI)	Description of Offense
1	89	4A	[REDACTED]	Marked Lanes Violation
2	90	24	[REDACTED]	OUI Liquor
3	540	2	[REDACTED]	Failed to Dim Headlights



Narratives for Incident Number 201500007531 ? Yes

Other Narratives not authorized for print? None

Narratives this user authorized to print:

Narrative by: Patrol Officer Daniel Holway Division: Acton Police Department

<u>Date & Time</u>	<u>Narrative Description</u>	<u>Entered by</u>	<u>Status</u>	<u>Reviewed by</u>	<u>Last Edit Date</u>
04/19/2015 22:58		Patrol Officer Daniel Holway	Open		04/20/2015

On Sunday, April 19, 2015 while on patrol and assigned to marked cruiser 30, I was travelling west bound on Great Road at approximately 8:29 p.m. All mentioned roadways are public roadways in the town of Acton.

My attention was drawn to the oncoming vehicle travelling east bound on Great Road. The operator of this vehicle failed to dim his headlights and as it approached my vehicle, the vehicle then came over the double yellow line. The vehicles front and rear drivers' side tires crossed completely over the double yellow line into my lane of travel. I swerved to the right to avoid a collision. At this point I turned my cruiser around and followed the vehicle.

The vehicle, [REDACTED], again crossed over the double yellow lines, drivers' side tires completely over, and then the white fog line, passengers side tires rode on top of the lines, after seeing this, I activated my overhead lights. I noted the vehicle was slow to pull over but, pulled over in front of 126 Great Road.

I approached the vehicle on the drivers side and explained the reason for the stop. I immediately could detected a strong odor of an alcoholic beverage coming from the vehicle. When asked, the operator was slow to produce his license and registration. After I asked the driver for those two documents, I asked the operator about the failure to dim his headlights and crossing the double yellow lines. The operator replied, "I don't know". I again had to ask for the operators' license. The operator was identified as [REDACTED]. While speaking with [REDACTED] I observed his eyes to be blood shot and glassy. His speech was slow and slurred. His actions/reactions to the tasks I asked him to perform were very slow. I asked [REDACTED] where he was coming from and he stated, "The Makaha". I asked how much he had had to drink and [REDACTED] stated, "Four beers in two hours. Seven to nine". I asked if he had had anything to eat. [REDACTED] replied, "Ahh, take out. It's on my seat". I did observe and white plastic bag, a doggy bag if you will, on the front passengers side seat. I returned to my cruiser and called in the operators information to dispatch.

As Officer Krug arrived to assist, I asked [REDACTED] if he would exit the vehicle and perform some field sobriety tests, in which he complied. As I escorted [REDACTED] to the back of his vehicle I again detected a strong odor of alcohol coming from him.

Alphabet:

I asked [REDACTED] to say the alphabet from the letter D to Z. [REDACTED] started at the letter D jumped to G (clue one) stopped at the letter T (clue two) and then a few moments later stated, "That's it. I can't finish it". He failed this test.

Walk and Turn:

After agreeing to a flat clean area to perform this test, I explained and demonstrated the nine step walk and turn. [REDACTED] stated he understood and began the test. [REDACTED] straddled the small crack in the parking lot as opposed to walking on it (clue one) and his feet did not touch heel to toe (clue two). [REDACTED] shuffled on the way back. He failed this test.

One legged Stand:

After explaining and demonstrating this test, [REDACTED] went to his vehicle for stabilization. I explained the test again. [REDACTED] lifted his right leg up, counted to one and then put his foot down (clue one). I had to grab [REDACTED] from falling. [REDACTED] tried again and did the same thing (clue two). [REDACTED] tried again and said, "I cant, I cant". He failed this test.

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Print Date: April 21, 2015
Printed By: frentschler

Narrative by: Patrol Officer Daniel Holway Division: Acton Police Department (continued)

<u>Date & Time</u>	<u>Narrative Description</u>	<u>Entered by</u>	<u>Status</u>	<u>Reviewed by</u>	<u>Last Edit Date</u>
04/19/2015 22:58		Patrol Officer Daniel Holway	Open		04/20/2015

Horizontal Gaze Nystagmus:

██████████ had lack of smooth pursuit in both eyes (clue one) and there was distinct nystagmus at maximum deviation in both eyes (clue two). He failed this test.

During all of these field sobriety tests there was a strong odor of alcohol coming from ██████████ he was unsteady on his feet and when he spoke his speech was slow and slurred.

Due to my observations, operation, on a public way, ██████████ actions/reaction and failing all of the field sobriety tests, I formed the opinion the ██████████ was operating under the influence of alcohol and placed him into custody.

██████████ was transported back to the station by officer Krug where he was booked and processed by Sgt Cooney in accordance with the rules and regulations of this department, when offered an opportunity to take a breath test, ██████████ refused.

██████████ was issued citation number ██████████ and cited for 540 cmr 2.12 fail to dim headlights, 89-4A fail to stay in marked lanes, and 90-24J operation under the influence of alcohol.

Ptl. Daniel Holway

Signature - Reporting Officer

Signature - Reviewing Officer

Incident Dispatcher Remarks:

Create User ID: system

Date & Time

04/19/2015 22:30:11

85DH MVS RI PC 103966 towed by Scott Motors. 82SK returned with one under arrest.

CRIMINAL DOCKET		DOCKET NUMBER [REDACTED]	NO. OF COUNTS 3	Trial Court of Massachusetts District Court Department	
DEFENDANT NAME AND ADDRESS [REDACTED]		DOB 09/29/1985	GENDER Male	COURT NAME & ADDRESS Concord District Court 305 Walden Street Concord, MA 01742	
		DATE COMPLAINT ISSUED 04/21/2015			
		PRECOMPLAINT ARREST DATE 04/21/2015		INTERPRETER REQUIRED	
FIRST FIVE OFFENSE COUNTS					
COUNT	CODE	OFFENSE DESCRIPTION	OFFENSE DATE		
1	90/24/J	OUI-LIQUOR OR .08% c90 §24(1)(a)(1)	04/19/2015		
2	540CMR2205	HEADLIGHTS, FAIL DIM * 540 CMR §22.05(2)	04/19/2015		
3	89/4A	MARKED LANES VIOLATION * c89 §4A	04/19/2015		
DEFENSE ATTORNEY <i>dnq</i>		OFFENSE CITY/TOWN Acton	POLICE DEPARTMENT ACTON PD		
DATE & JUDGE	DOCKET ENTRY		DATE & JUDGE	FEES IMPOSED	
4.22.15 <i>Surph</i>	<input type="checkbox"/> Attorney appointed (SJC R. 3:10) <input type="checkbox"/> Atty denied & Def. Advised per 211 D §2A <input type="checkbox"/> Waiver of Counsel found after colloquy Terms of release set: <input checked="" type="checkbox"/> PR <input type="checkbox"/> Bail <input checked="" type="checkbox"/> See Docket for special condition <input type="checkbox"/> Held (276 §58A) <i>not done unless done</i>			Counsel Fee (211D § 2A(2)) \$	<input type="checkbox"/> WAIVED
				Counsel Contribution (211D § 2) \$	<input type="checkbox"/> WAIVED
				Default Warrant Fee (276 § 30(1)) \$	<input type="checkbox"/> WAIVED
				Default Warrant Arrest Fee (276 § 30 (2)) \$	<input type="checkbox"/> WAIVED
4.22.15 <i>Surph</i>	Arraigned and advised: <input checked="" type="checkbox"/> Potential of bail revocation (276 §58B) <input type="checkbox"/> Right to bail to review (276 §58) <input type="checkbox"/> Right to drug exam (111E § 10) <input type="checkbox"/> Inquiry made by Court under 276 § 56A		6.1.15 <i>Surph</i>	Probation Supervision Fee (276 § 87A) \$ <i>65</i>	<input type="checkbox"/> WAIVED
				Ball Order Forfeited	
	Abuse Allegation: <input type="checkbox"/> C276 § 58A form filed by Commonwealth <input type="checkbox"/> Allegation of abuse under C276 § 56A found <input type="checkbox"/> No allegation of abuse under C276 § 56A found			<input type="checkbox"/> Advised of right to jury trial: <input type="checkbox"/> Waiver of jury found after colloquy <input type="checkbox"/> Does not waive	
				Advised of trial rights as pro se (Dist. Ct. Supp.R.4)	
				Advised of right of appeal to Appeals CL. (M.R. Crim P.R. 28)	
SCHEDULING HISTORY					
NO.	SCHEDULED DATE	EVENT	RESULT	JUDGE	TAPE START/ STOP
1	04/21/2015	Arraignment	<input type="checkbox"/> Held <input type="checkbox"/> Not Held but Event Resolved <input type="checkbox"/> Cont'd	<i>DDW</i>	
2	4.22.15	<i>ARRK</i>	<input checked="" type="checkbox"/> Held <input type="checkbox"/> Not Held but Event Resolved <input type="checkbox"/> Cont'd	<i>Surph</i>	
3	6.1.15	<i>PT</i>	<input type="checkbox"/> Held <input checked="" type="checkbox"/> Not Held but Event Resolved <input type="checkbox"/> Cont'd	<i>Surph</i>	
4			<input type="checkbox"/> Held <input type="checkbox"/> Not Held but Event Resolved <input type="checkbox"/> Cont'd		
5			<input type="checkbox"/> Held <input type="checkbox"/> Not Held but Event Resolved <input type="checkbox"/> Cont'd		
6			<input type="checkbox"/> Held <input type="checkbox"/> Not Held but Event Resolved <input type="checkbox"/> Cont'd		
7			<input type="checkbox"/> Held <input type="checkbox"/> Not Held but Event Resolved <input type="checkbox"/> Cont'd		
8			<input type="checkbox"/> Held <input type="checkbox"/> Not Held but Event Resolved <input type="checkbox"/> Cont'd		
9			<input type="checkbox"/> Held <input type="checkbox"/> Not Held but Event Resolved <input type="checkbox"/> Cont'd		
10			<input type="checkbox"/> Held <input type="checkbox"/> Not Held but Event Resolved <input type="checkbox"/> Cont'd		
APPROVED ABBREVIATIONS					
ARR = Arraignment PTH = Pretrial hearing DCE = Discovery compliance & jury selection BTR = Bench trial JTR = Jury trial PCH = Probable cause hearing MOT = Motion hearing SRE = Status review SRP = Status review of payments FAT = First appearance in jury session SEN = Sentencing CWF = Continuance without finding scheduled to terminate PRO = Probation scheduled to terminate DFTA = Defendant failed to appear & was defaulted WAR = Warrant issued WARD = Default warrant issued WR = Warrant or default warrant recalled PVH = probation revocation hearing.					
A TRUE COPY ATTEST:		CLERK-MAGISTRATE / ASST CLERK X		TOTAL NO. OF PAGES	ON (DATE)



CRIMINAL DOCKET - OFFENSES		DEFENDANT NAME			DOCKET NUMBER		
COUNT / OFFENSE 1 OUI-LIQUOR OR .08% c90 §24(1)(a)(1)				DISPOSITION DATE AND JUDGE 6-1-15 Surpin			
DISPOSITION METHOD <input type="checkbox"/> Guilty Plea or <input checked="" type="checkbox"/> Admission to Sufficient Facts accepted after colloquy and 278 §29D warning <input type="checkbox"/> Bench Trial <input type="checkbox"/> Jury Trial <input type="checkbox"/> Dismissed upon: <input type="checkbox"/> Request of Commonwealth <input type="checkbox"/> Request of Victim <input type="checkbox"/> Request of Defendant <input type="checkbox"/> Failure to prosecute <input type="checkbox"/> Other: <input type="checkbox"/> Filed with Defendant's consent <input type="checkbox"/> Nolle Prosequi <input type="checkbox"/> Decriminalized (277 §70 C)		FINE/ASSESSMENT HEAD INJURY ASMT 250	SURFINE RESTITUTION	COSTS VW ASSESSMENT 50	OUI §24D FEE 250	OUI VICTIMS ASMT 50	
		SENTENCE OR OTHER DISPOSITION <input checked="" type="checkbox"/> Sufficient facts found but continued without a finding until: <input type="checkbox"/> Defendant placed on probation until: <input checked="" type="checkbox"/> Risk/Need or OUI <input type="checkbox"/> Administrative Supervision <input type="checkbox"/> Defendant placed on pretrial probation (276 §87) until: <input type="checkbox"/> To be dismissed if court costs / restitution paid by:				5-31-15 24D 45 days LA	
FINDING <input type="checkbox"/> Guilty <input type="checkbox"/> Not Guilty <input type="checkbox"/> Responsible <input type="checkbox"/> Not Responsible <input type="checkbox"/> Probable Cause <input type="checkbox"/> No Probable Cause		FINAL DISPOSITION <input type="checkbox"/> Dismissed on recommendation of Probation Dept. <input type="checkbox"/> Probation terminated: defendant discharged <input type="checkbox"/> Sentence or disposition revoked (see cont'd page)		JUDGE		DATE	
COUNT / OFFENSE 2 HEADLIGHTS, FAIL DIM * 540 CMR §22.05(2)				DISPOSITION DATE AND JUDGE 6-1-15 Surpin			
DISPOSITION METHOD <input type="checkbox"/> Guilty Plea or <input type="checkbox"/> Admission to Sufficient Facts accepted after colloquy and 278 §29D warning <input type="checkbox"/> Bench Trial <input type="checkbox"/> Jury Trial <input type="checkbox"/> Dismissed upon: <input type="checkbox"/> Request of Commonwealth <input type="checkbox"/> Request of Victim <input type="checkbox"/> Request of Defendant <input type="checkbox"/> Failure to prosecute <input type="checkbox"/> Other: <input type="checkbox"/> Filed with Defendant's consent <input type="checkbox"/> Nolle Prosequi <input type="checkbox"/> Decriminalized (277 §70 C)		FINE/ASSESSMENT HEAD INJURY ASMT	SURFINE RESTITUTION	COSTS VW ASSESSMENT	OUI §24D FEE	OUI VICTIMS ASMT	
		SENTENCE OR OTHER DISPOSITION <input type="checkbox"/> Sufficient facts found but continued without a finding until: <input type="checkbox"/> Defendant placed on probation until: <input type="checkbox"/> Risk/Need or OUI <input type="checkbox"/> Administrative Supervision <input type="checkbox"/> Defendant placed on pretrial probation (276 §87) until: <input type="checkbox"/> To be dismissed if court costs / restitution paid by:					
FINDING <input type="checkbox"/> Guilty <input type="checkbox"/> Not Guilty <input checked="" type="checkbox"/> Responsible <input type="checkbox"/> Not Responsible <input type="checkbox"/> Probable Cause <input type="checkbox"/> No Probable Cause		FINAL DISPOSITION <input type="checkbox"/> Dismissed on recommendation of Probation Dept. <input type="checkbox"/> Probation terminated: defendant discharged <input type="checkbox"/> Sentence or disposition revoked (see cont'd page)		JUDGE		DATE	
COUNT / OFFENSE 3 MARKED LANES VIOLATION * c89 §4A				DISPOSITION DATE AND JUDGE 6-1-15 Surpin			
DISPOSITION METHOD <input type="checkbox"/> Guilty Plea or <input type="checkbox"/> Admission to Sufficient Facts accepted after colloquy and 278 §29D warning <input type="checkbox"/> Bench Trial <input type="checkbox"/> Jury Trial <input type="checkbox"/> Dismissed upon: <input type="checkbox"/> Request of Commonwealth <input type="checkbox"/> Request of Victim <input type="checkbox"/> Request of Defendant <input type="checkbox"/> Failure to prosecute <input type="checkbox"/> Other: <input type="checkbox"/> Filed with Defendant's consent <input type="checkbox"/> Nolle Prosequi <input type="checkbox"/> Decriminalized (277 §70 C)		FINE/ASSESSMENT HEAD INJURY ASMT	SURFINE RESTITUTION	COSTS VW ASSESSMENT	OUI §24D FEE	OUI VICTIMS ASMT	
		SENTENCE OR OTHER DISPOSITION <input type="checkbox"/> Sufficient facts found but continued without a finding until: <input type="checkbox"/> Defendant placed on probation until: <input type="checkbox"/> Risk/Need or OUI <input type="checkbox"/> Administrative Supervision <input type="checkbox"/> Defendant placed on pretrial probation (276 §87) until: <input type="checkbox"/> To be dismissed if court costs / restitution paid by:					
FINDING <input type="checkbox"/> Guilty <input type="checkbox"/> Not Guilty <input checked="" type="checkbox"/> Responsible <input type="checkbox"/> Not Responsible <input type="checkbox"/> Probable Cause <input type="checkbox"/> No Probable Cause		FINAL DISPOSITION <input type="checkbox"/> Dismissed on recommendation of Probation Dept. <input type="checkbox"/> Probation terminated: defendant discharged <input type="checkbox"/> Sentence or disposition revoked (see cont'd page)		JUDGE		DATE	



