
Internal Administrative Investigation Report

Case No. 1A-22-016



Liberty County Sheriff's Office
Bureau of Professional Standards

Approved May 16, 2023

FOR PUBLIC RELEASE



Liberty County Sheriff's Office

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BUREAU OF PROFESSIONAL STANDARDS

Internal Administrative Investigation Report

INVESTIGATION OUTLINE

- A. Internal Affairs No.: 1A-22-016
- B. Involved Employee(s): Sgt. Dennis Abbgly (Badge No. 981)
Cpl. Weyman Chapman (Badge No. 941)
ADS (now Cpl.) Joshua Tilley (Badge No. 923)
Deputy Samuel Davis (Badge No. 921)
- C. Encounter Date and Time: April 20, 2022, at approximately 10:30 a.m. ET
- D. Location of Encounter: Interstate 95 (northbound) at Mile Marker 73
- E. Complainant(s): Numerous (Investigation Conducted at Direction of Sheriff)
- F. Date of Complaint(s): Serial Complaints, beginning approximately May 9, 2022
- G. General Order(s) Implicated: General Order No. 2.24 – Bias Based Profiling
- H. Investigator: Capt. Joshua Heath, Internal Affairs, Liberty County Sheriff's Office
- I. Abstract of Allegations: Complainants expressed concern that the subject traffic stop and attendant search were unlawful and otherwise motivated by biased-based "profiling", that is (in this case) law enforcement personnel relied upon race in stopping a charter bus carrying the Delaware State University Women's Lacrosse Team and in deciding upon the scope and substance of other investigatory activities
- J. Scope of Inquiry: Determine if Sgt. Abbgly and other involved personnel violated General Order No. 2.24 prohibiting bias-based profiling or applicable law



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1. General Order No. 2.24 – Bias Based Profiling
2. O.C.G.A. § 40-6-53 (Buses or motorcoaches to operate in specified lanes)
3. Encounter Timeline
4. Canine and Handler Certification

Note: BWC videos are available upon request or online at <https://www.libertyso.org>.



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Internal Affairs Investigation
Case No: IA-22-016
Date Accepted: May 16, 2023

NOTE: THE FOLLOWING SUPERSEDES ALL PRIOR DRAFTS AND OTHER ITERATIONS OF THIS REPORT AND CONSTITUTES THE FINAL AND OFFICIAL STATEMENT CONCERNING THE RESULTS OF THE SUBJECT INVESTIGATION.

I. Introduction and Scope.

An internal administrative investigation was initiated following receipt of numerous public complaints expressing concern that the below described traffic stop and attendant search were unlawful and otherwise motivated by biased-based “profiling”, that is (in this case) that law enforcement personnel relied upon race in stopping a charter bus carrying the Delaware State University Women’s Lacrosse Team and in deciding upon the scope and substance of other investigatory activities.

Pursuant to General Order 5.09 (Internal Investigations), the purpose of this Report is to memorialize the investigation conducted following these complaints and recommend appropriate disposition based on the investigative findings. During this investigation, the involved Deputies were interviewed, and all body-worn camera (BWC) video was examined, to determine if any policies or laws were violated in connection with the law enforcement activities under review.

To the extent required under the Georgia Open Records Act, O.C.G.A. § 50-18-70 et seq., this Report, as well as any evidence referenced herein, will be made available for public inspection and copying in accordance with said Act. This report will also be considered in connection with annual and ongoing reviews conducted by the Liberty County Sheriff’s Office (LCSO) to evaluate its training, policies, and procedures and to ascertain whether changes to the same are advisable. Policy recommendations are beyond the scope of this Report.

II. Overview.

A narrative summary of the traffic stop and other investigatory activities, as well as the public complaints received in regard to the same, are provided immediately below. A fuller account of the encounter (and additional evidence in support of this summary) is provided in Section IV.

A. The Traffic Stop and other Investigatory Activities.

On April 20, 2022, Sergeant (Sgt.) Dennis Abby observed a charter bus traveling in the far-left lane or “fast lane” of Interstate 95 (northbound). The section of Interstate 95 referenced in this Report consists of three lanes allowing for movement in the same direction. Sgt. Abby assessed



that the bus was traveling in the far-left lane without justification in apparent violation of **O.C.G.A. § 40-6-53 (Buses or motorcoaches to operate in specified lanes)**.¹

Based on Sgt. Abby's observations, a traffic stop was initiated at approximately 10:30:37 a.m. ET at Mile Marker 73. Sgt. Abby made contact with the driver of the bus, Mr. Timothy Jones, at 10:31:02 a.m. The charter bus was transporting the Delaware State Women's Lacrosse Team from Florida to Delaware. There were approximately 29 occupants, the majority of whom were black. Until this contact, Sgt. Abby was unaware of the race or gender of the bus's driver or its passengers.

At the time of the stop, Advanced Deputy Sheriff (ADS) Joshua Tilley was working the eastern portion of Liberty County, which includes Interstate 95, in support of drug interdiction efforts and other law enforcement activities authorized by the LCSO. Consistent with these duties, ADS Tilley reported to the scene at 10:32:36 a.m. to deploy his canine, approximately two minutes after commencement of the traffic stop.

After asking Mr. Jones a few initial questions incident to the stop² and informing the passengers of the traffic violation, Sgt. Abby indicated at 10:32:58 a.m. that he "...was going to write [Mr. Jones] a warning ticket for a left lane violation" and that he would require "...a few minutes to get the paperwork done." Sgt. Abby then relocated, along with Mr. Jones, to his patrol vehicle where he continued to attend to the traffic stop, which consisted of further discussing the violation with Mr. Jones, undertaking a computer search of Mr. Jones' license using a dash-mounted mobile data terminal (MDT), and preparing to write a warning ticket.³ Casual and friendly small talk with Mr. Jones also occurred while Sgt. Abby performed these duties.

Concurrently with Sgt. Abby's handling of the traffic violation, ADS Tilley used his canine to conduct a "free air sniff" around the bus's exterior. This effort was aided by Mr. Jones, who volunteered to open the luggage bays of the bus during the open-air canine sniff. The canine sniff began at approximately 10:34:24 a.m.⁴ and concluded at 10:35:14 a.m. The canine first alerted to the odor of narcotics at approximately 10:34:45.⁵ This alert occurred at the section of the luggage

¹ O.C.G.A. § 40-6-53(a) provides that "[o]n roads, streets, or highways with three or more lanes allowing for movement in the same direction, it shall be unlawful for any bus or motorcoach to operate in any lanes other than the two most right-hand lanes, except when the bus or motorcoach is preparing for a left turn, is moving to or from an HOV lane, or as otherwise provided by subsection (c) of this Code section." Subsection (c) applies only to "...interstate highways with four or more lanes allowing for movement in the same direction..." For purposes of Title 40, of which this Code section is a part, "bus means every motor vehicle designed for carrying more than ten passengers and used for the transportation of persons and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation." O.C.G.A. § 40-1-1(7).

² In addition to a discussion of the actual traffic violation, these inquiries concerned the identity and number of the bus's occupants and their travel itinerary.

³ Approximately 1 minute and 9 seconds elapsed from the time Sgt. Abby entered his patrol vehicle at 10:33:36 a.m. to perform these duties until the initial canine alert at 10:34:45 a.m. At no time prior to the alert did Sgt. Abby ask Mr. Jones any questions aimed at investigating crimes unrelated to the traffic violation.

⁴ The timing of events is based on a review of time stamped BWC video. To the extent any minor discrepancies exist in the times stipulated in this Report and such video evidence, the video evidence will control.

⁵ As used herein, and consistent with the certification held by ADS (now Cpl.) Tilley and his canine, Kona, the term "narcotics" is used to include marijuana, methamphetamine, cocaine, and heroin. An alert signifies that odor of one or more of these controlled substances has been detected.



bay closest to the entry door. The total time elapsed from initial contact with the driver to the canine alert was approximately 3 minutes and 43 seconds, and the total time elapsed from the physical stop of the bus to such alert was approximately 4 minutes and 8 seconds.

As part of the LCSO's interstate interdiction efforts, it is common for available canine units to respond to traffic stops, especially those involving trucks, buses, and other common carriers. This is done, in part, to address the reported use of such large vehicles to illegally transport drugs and other contraband along the interstate corridors, sometimes without the knowledge of drivers or passengers. In these situations, and if a canine unit is available, an open-air canine sniff is customarily conducted to the extent it can be accomplished without prolonging the traffic stop.⁶

At approximately 10:37:32 a.m., and following notification of the positive canine alert, Sgt. Abby suspended his work on the traffic violation and advised Mr. Jones and the bus passengers of the results of the canine sniff and the reasons for the resulting baggage search. In response to a passenger question (regarding why a search was conducted following a routine traffic stop), Sgt. Abby explained some of the reasons for the LCSO's interstate interdiction efforts and specifically reassured the passengers that "we don't single anybody out."

Sgt. Abby and Deputy Davis conducted a search of that portion of the luggage bay to which the canine alerted. Several bags were removed and searched from this section of the luggage bay. No other portions of the bus or belongings or persons thereon were searched. No contraband was found.⁷

Following the search, Sgt. Abby boarded the bus and thanked the passengers. Sgt. Abby elected not to further detain the bus and issued a verbal warning only to the driver regarding the traffic violation. The encounter ended at approximately 10:52:30 a.m. The total duration of the traffic stop and other investigatory activities was less than twenty-two (22) minutes. The bus driver and passengers were cooperative throughout the encounter.

B. The Complaints.

On May 9, 2022, the LCSO began receiving complaints (via phone and email) regarding the traffic stop and attendant search. Complainants expressed concern that the actions of LCSO personnel were unlawful and otherwise motivated by biased-based "profiling", that is (in this case) personnel relied upon race in stopping the bus and in deciding upon the scope and substance of other investigatory activities. More than two hundred (200) complaints were received.

⁶ As used in this Report, and unless the context indicates otherwise, "traffic stop" refers to Sgt. Abby's stop of the bus for the noted traffic violation and activities related to such mission. It is to be distinguished from the canine sniff conducted concurrently with the traffic stop and the resulting baggage search. "Encounter" is sometimes used to refer collectively to the traffic stop and these other investigatory activities (i.e., the canine sniff and baggage search).

⁷ As discussed in Sec. IV, passengers reported that someone (other than them) was "hotboxing in an elevator" at their hotel. "Hotboxing" commonly refers to the practice of filling a small room or space with marijuana smoke in order to inhale it and thereby purportedly intensify the drug's effect. Under such circumstances, residual marijuana odor may be transferred to clothing, etc. and later detected by a trained canine.



In response to these complaints and at the specific direction of the Sheriff, an internal investigation was initiated to determine whether the Deputies' actions in connection with the encounter complied with LCSO policy and applicable law.

Consistent with General Order 5.09, and to further promote public confidence and trust in the complaint review process, the LCSO requested that outside law enforcement agencies assist the LCSO in investigating these allegations to determine if violations of applicable policy or law occurred. At the time, such requests were declined.

III. Involved Personnel.

The following Deputies were directly involved in the encounter under review: Sgt. Abbgly, Cpl. Chapman, ADS (now Cpl. Tilley), and Deputy Davis.

Sgt. Abbgly began his employment with the LCSO in March of 2007. He voluntarily resigned in March of 2019 and accepted a position with the Georgia Ports Authority for six months. Sgt. Abbgly voluntarily resigned from the Georgia Ports Authority and returned to the LCSO in October of 2019. Sgt. Abbgly is currently assigned as a LCSO Traffic Unit supervisor. His first-line supervisor is Lt. Phillip Bohannon. Effective May 11, 2023, Sgt. Abbgly resigned from the LCSO for reasons unrelated to the encounter.

Cpl. Chapman began his employment with the LCSO in September of 2006. Cpl. Chapman is currently assigned to the traffic unit and is supervised by Lt. Bohannon and Sgt. Abbgly.

ADS (now Cpl.) Tilley began his employment with the LCSO in December of 2016. Cpl. Tilley is currently assigned to the Canine Unit but works on A-Watch and is supervised by Lt. Marchand and Sgt. Freeman. Cpl. Tilley and his canine, Kona, a female Dutch Shepherd, hold requisite certification in "Basic Handling and Narcotics Detection" and participate in mandated, ongoing training. Initial certification consists of a 480-hour course conducted in accordance with applicable standards, including those established by the National Narcotic Detection Dog Association (NNDDA). As used with respect to the certification obtained by Cpl. Tilley and Kona, "narcotics" includes marijuana, methamphetamine, cocaine, and heroin. A copy of the above referenced certification is attached to this Report.

Deputy Davis has been with the LCSO since August of 2021. He is currently assigned to the H.E.A.T. Unit. He is supervised by Lt. Bohannon and Sgt. Abbgly.

The above Deputies are in good standing with the State of Georgia Peace Officer Standards and Training Council (P.O.S.T.). Additionally, these Deputies have been advised of General Order No. 2.24 prohibiting bias-based profiling and have participated in required training on this subject.

Based on information available to the Bureau of Professional Standards, none of the involved Deputies have been the subject of complaints from the public alleging race discrimination or bias-based profiling, except that Sgt. (then Cpl.) Abbgly was referenced in a complaint received by the



LCSO alleging racial profiling in connection with a traffic stop that occurred on March 19, 2021. A formal investigation into this complaint conducted by Maj. Kirkendall of the Bureau of Professional Standards found no violation. It is also noted that while Cpl. Chapman is not known to be the subject of any complaints from the public, he was involved in an intradepartmental personnel matter in which racially insensitive comments were alleged. Cpl. Chapman was disciplined for his involvement and satisfactorily completed mandatory probation. Cpl. Chapman exercised no discretion in determining whether to stop the bus or to conduct the canine sniff and related baggage search.

IV. Investigative Account.

An account of evidence gathered from videos obtained from body-worn cameras (BWC) activated at the scene, as well as from interviews of the involved Deputies, follows. While Deputy interviews were conducted primarily on the dates indicated below, additional inquiries were made to one or more Deputies as needed to confirm information. If not specifically noted, the exact or approximate times of the events material to this investigation are indicated on the attached Encounter Timeline, which is made a part of this Report. All LCSO personnel cooperated fully with the subject investigation. Dash-mounted cameras were not activated during the encounter.

A. Body-Worn Camera Video Review. **On May 9, 2022**, all available videos obtained from BWCs activated at the scene were reviewed. These videos disclosed the following:⁸

1. *Sgt. Abby's BWC*

Sgt. Abby's BWC activates at the beginning of the traffic stop once the bus has pulled over to the far-right shoulder of Interstate 95 and Sgt. Abby exits his vehicle. The footage shows Sgt. Abby approach the bus on the right side of the vehicle, and, as he nears the door, it opens. Sgt. Abby greets the bus driver, Mr. Jones, and asks him to step off the bus to explain the reason for the stop. As Mr. Jones exits the bus, Sgt. Abby asks Mr. Jones if he has his license, and Mr. Jones confirms that he does. Sgt. Abby explains the basis for the stop, and Mr. Jones asks a few questions, which Sgt. Abby clarifies.⁹

During this time, Sgt. Abby learns that Mr. Jones is transporting a sports team from Jacksonville, Florida to Delaware. Sgt. Abby asks, "Like a football team?" and Mr. Jones informs Sgt. Abby that the occupants are a women's lacrosse team. Sgt. Abby also asks routine questions regarding the number of passengers and their travel itinerary. Once Sgt. Abby finishes explaining his understanding of the law regarding permissible lanes of bus travel on the interstate, he mentions to Mr. Jones that he would like to tell the passengers what he is doing. With Mr. Jones' consent, Sgt. Abby boards the bus and proceeds to explain the reason for the stop, i.e., that the bus was

⁸ For purposes of narrative efficiency, evidence obtained from other BWCs is sometimes referenced in the account of specific BWC video discussed in this Section IV. Additionally, the description of BWC evidence contained in this Section IV is not intended to be comprehensive but is limited to those matters which may be relevant to the subject investigation, or which otherwise provide helpful context or a fuller understanding of the activities being described.

⁹ During his discussions with Sgt. Abby, Mr. Jones admitted to travelling in the far-left lane.



travelling in a restricted lane without legal justification. After explaining matters to the passengers, Sgt. Abbgly exits the bus and invites Mr. Jones to his patrol vehicle while he completes required stop-related activities.

While Sgt. Abbgly is engaged with Mr. Jones and the passengers, ADS Tilley arrives on the scene. As Sgt. Abbgly is walking to his patrol vehicle, he indicates to ADS Tilley to “go ahead and run it,” giving his assent to initiate the open-air canine sniff.

At his patrol vehicle, Sgt. Abbgly initiates a check of Mr. Jones' information on the patrol vehicle's mobile data terminal (MDT). While Sgt. Abbgly is operating the MDT and preparing to write a warning, he has a casual conversation with Mr. Jones, who is standing at the passenger side door. Sgt. Abbgly remains professional throughout this encounter.

During the traffic stop, Cpl. Weyman Chapman notifies Sgt. Abbgly that the canine indicated a positive alert to the odor of narcotics per ADS Tilley. The BWC shows Sgt. Abbgly stop work on his MDT, approach Mr. Jones, and explain the violation again. Sgt. Abbgly then approaches the side of the bus where Deputy Davis has removed a few backpacks from that portion of the bus's luggage bay to which the canine earlier alerted.

Sgt. Abbgly boards the bus and begins to explain to the passengers what traffic interdiction entails. Sgt. Abbgly then tells the bus passengers that the luggage will be searched and informs them that if anything is found, the deputies on the scene “will not be able to help them.” In response to a passenger question (regarding why a search was conducted following a routine traffic stop), Sgt. Abbgly explains some of the reasons for the LCSO's interstate interdiction efforts and specifically reassures the passengers that “we don't single anybody out.”

Sgt. Abbgly exits the bus and confirms that the alert occurred at the front of the luggage bay closest to the entry door. Sgt. Abbgly removes a few bags from this area of the luggage bay and, with Deputy Davis, conducts a search of the same. Deputy Davis can be heard on the video saying that the players mentioned someone (other than them) was "hotboxing in an elevator" at their hotel.

Sgt. Abbgly is seen locating an item wrapped in brown paper bag material. He boards the bus and asks one of the passengers if the object belongs to her and what is contained in the wrapping. She responds that she does not know. The passenger states that the item was from her aunt and was told to open it when she returned to school. Sgt. Abbgly then opens the package and verifies that it was not contraband. The item was a book safe. The article was repacked and returned to the passenger's bag. Sgt. Abbgly then decides to conclude the search. The bags were returned to the luggage bay.

Sgt. Abbgly returns Mr. Jones' license, informs the passengers that the stop has ended, and thanks everyone for their cooperation. A verbal warning was provided to Mr. Jones. On the way back to his patrol car, Sgt. Abbgly stops his BWC. The encounter lasts approximately 21 minutes and 53 seconds.



2. *ADS Tilley's BWC*

Upon reviewing ADS Tilley's BWC, his camera is turned on (next to the bus) as Sgt. Abby is exiting the bus following his explanation of the traffic stop to the passengers. The BWC shows Sgt. Abby return to his vehicle and ADS Tilley return to his patrol vehicle to retrieve the canine. As ADS Tilley approaches the bus with his canine, Mr. Jones asks ADS Tilley if he would like him to open the luggage bay and ADS Tilley replies, "If you want to." Mr. Jones returns to the bus and opens the luggage bay where the passenger bags are stored. After Mr. Jones opens the luggage bay and returns to Sgt. Abby's patrol car, ADS Tilley walks his canine beside the bus and proceeds with the open-air sniff. The canine stops at the front of the opened luggage bay, and after sitting down and looking at ADS Tilley, ADS Tilley says, "Good girl!" The canine continues her sniff and sits again, which is acknowledged by ADS Tilley saying, "Good girl!" A few bags are removed from the luggage bay and ADS Tilley has his canine sniff the bags. The canine then returns to the front area of the luggage bay. ADS Tilley returns the canine to his patrol car. ADS Tilley then boards the bus and explains to the occupants that his canine responded to the odor of narcotics. At this point, the video parallels what Sgt. Abby's video showed when Sgt. Abby explained that a search would be conducted. ADS Tilley exits the bus and stands by while Sgt. Abby and Deputy Davis conduct the search as shown on Sgt. Abby's video. ADS Tilley's remaining BWC video depicts the same events as Sgt. Abby's BWC, only from a different perspective. The length of ADS Tilley's video is 19 minutes and 39 seconds.

3. *Deputy Davis' BWC*

Deputy Davis' BWC was activated after he arrived on the scene and as Mr. Jones was opening the bus's luggage bay. Following its activation, Deputy Davis' BWC recorded for only 4 seconds before stopping due to an apparent malfunction. Notwithstanding his BWC's malfunction, Deputy Davis is seen on the other BWCs during the encounter and his actions (or substantially all of his actions) on the scene are recorded.

4. *Cpl. Chapman's BWC*

Cpl. Chapman's BWC begins after the canine was deployed and returned to the patrol car. Cpl. Chapman's BWC shows the search conducted by Deputy Davis and Sgt. Abby. Cpl. Chapman speaks with Mr. Jones next to the bus while the search is conducted. The encounter between Cpl. Chapman and Mr. Jones is friendly. Cpl. Chapman also answers questions from Mr. Jones. Cpl. Chapman remains professional throughout his time speaking with Mr. Jones. Cpl. Chapman's BWC does not provide additional information relevant to the subject inquiry not available from a review of Sgt. Abby's BWC. The length of the video is 13 minutes and 51 seconds.

B. Interviews of Involved Personnel.

Below is an account of the interviews of all LCSO personnel involved (on scene) in the encounter, including Sgt. Abby, Cpl. Chapman, Deputy Davis, and ADS Tilley.



1. *Interview of Sgt. Abbgly*

On May 10, 2022, Major Bill Kirkendall and I met with Sgt. Abbgly to discuss the encounter. Sgt. Abbgly was asked specifically under which Code Section he stopped the bus. Sgt. Abbgly informed us that he was familiar with O.C.G.A. 40-6-53, which pertains to buses, and that it was the Code Section he relied upon. The Code Section concerning trucks (O.C.G.A. 40-6-52) was brought to Sgt. Abbgly's attention due to it being similar to O.C.G.A. 40-6-53. Sgt. Abbgly stated he understood officers can get the two Code Sections confused and added that he briefed his traffic unit before their shift on April 20, 2022 to ensure they were clear on the difference between the two Code Sections. Sgt. Abbgly stated that he wanted to make sure his subordinates were clear on the law.

Sgt. Abbgly explained that while he was at an unrelated traffic stop, he observed the bus travelling on Interstate 95 in the far-left lane or "fast lane" and that the bus was not passing traffic. Sgt. Abbgly noted that he had time to conclude his then current stop and catch up to the bus in question. Sgt. Abbgly said that the bus was still traveling in the far-left lane. Sgt. Abbgly noted that the amount of traffic on the interstate at the time was medium. Based on the bus's continued travel in the far-left lane without apparent justification, Sgt. Abbgly decided to initiate the traffic stop. Sgt. Abbgly explained that he stayed within the scope of his traffic stop and conducted his business with the driver. Sgt. Abbgly stated ADS Tilley was on the scene quickly and utilized his canine for a free air sniff while he continued to speak with the bus driver and perform tasks associated with the traffic stop. Sgt. Abbgly noted that he did not suspend or interrupt his duties relating to the traffic stop until he was notified that the canine alerted to the odor of narcotics. Sgt. Abbgly stated that, following such notification, he began the baggage search depicted on his BWC video.

Sgt. Abbgly was asked if he was aware that Deputy Davis' BWC only recorded a brief segment of the encounter. Sgt. Abbgly stated that he was aware and that this has happened once in the past to Deputy Davis. Sgt. Abbgly stated that he would speak with Deputy Davis and advise him to take the time to ensure that his BWC is activated and working correctly.¹⁰

On May 11, 2022, at 1123 hrs., I conducted a second interview with Sgt. Abbgly. I asked Sgt. Abbgly about the traffic stop and specifically what drew his attention to the bus. Sgt. Abbgly informed me that the bus was traveling in the far-left lane, which is a violation of Georgia law.

I asked Sgt. Abbgly to describe the bus to me. He stated that the bus was a plain white charter bus with dark tinted windows. I asked if any markings on the bus indicated whether the bus was affiliated with a university and he stated that no such markings were observed. I asked Sgt. Abbgly if he could tell if there were any passengers on the bus and he said he could not. When asked about the height of the windows on the bus, Sgt. Abbgly described them as being about 7 feet off the ground. I next asked him if he was able to see into the bus while seated in his patrol car, which is a Dodge Charger, and he said that he was not be able to see inside the bus. I asked Sgt. Abbgly if

¹⁰ It is noted that this is consistent with Deputy Davis' account and that Deputy Davis attributed the failure of his BWC to activate to an unknown malfunction.



he could see inside the bus when he first approached it to speak with the driver, and he said he could not.

Before stopping the bus and speaking with the driver, Sgt. Abbigy confirmed that he did not know who occupied the bus.

I questioned Sgt. Abbigy about working interdiction, and he informed me that his team works on the interstate when working interdiction. I asked Sgt. Abbigy if he stopped buses and large trucks driving in the far-left lane in the past, and he stated yes. I also asked if, as part of interdiction efforts, it was his practice to search such buses and large trucks if probable cause existed for the same following a canine alert. He answered in the affirmative and confirmed that such searches are a routine component of interdiction efforts.

Sgt. Abbigy was additionally questioned whether bias of any kind could have factored into the traffic stop and other investigatory activities under review.¹¹ Sgt. Abbigy confirmed that, in accordance with training, he endeavors to always be mindful of any bias that may exist in his interactions with the public and is confident that no such bias was involved in his decisions relating to the encounter. He specifically and adamantly denied that race influenced his decisions in any way.

Sgt. Abbigy stated that he experienced no issues with the bus driver or passengers during the encounter. Rather than issue a formal citation, and given the duration of the encounter, Sgt. Abbigy noted that he verbally warned the bus driver to educate.

2. *Interview of Cpl. Chapman*

On May 11, 2022, at 1401 hrs., I interviewed Cpl. Chapman. During the interview, Cpl. Chapman stated that he arrived on the scene well after the traffic stop and acted in a support role. Cpl. Chapman stated that he did not participate in the search and stood by with the bus driver during these investigatory activities. Cpl. Chapman did not have any more information to offer other than what was available from his BWC.

3. *Interview of Deputy Davis*

On May 11, 2022, at 1411 hrs., I interviewed Deputy Davis, who stated he arrived on the scene around the same time as ADS Tilley with the intention to assist, and that he watched ADS Tilley use his canine to conduct an open-air sniff of the bus while Sgt. Abbigy conducted his enforcement action with the driver. Deputy Davis noted that the interactions with everyone on the scene were professional and that the driver and passengers appeared to understand answers provided in response to questions relating to the encounter. Deputy Davis stated that he assisted with searching a few bags but noted that no contraband was found. Deputy Davis also stated that a few of the

¹¹ This also includes implicit bias. Implicit bias refers to attitudes or stereotypes that affect a person's understanding, actions, and decisions in an unconscious manner. This bias, which can include both favorable and unfavorable assessments, is activated involuntarily and typically without an individual's awareness or intentional control.



passengers recalled being in an elevator at their hotel where someone had smoked marijuana. Deputy Davis stated this could have been the source of "transfer odor" which the canine may have alerted to, but he could not confirm the same.

Deputy Davis noted during the interview that there were only a select few bags that were searched based on the location of the canine alert. Deputy Davis stated they did not search every bag in the luggage bay. Deputy Davis did not provide any additional information other than what was available from his BWC.

4. *Interview of ADS Tilley*

On May 11, 2022, at 1515 hrs., I interviewed ADS Tilley. ADS Tilley informed me that he is not a part of the traffic team, but on the day in question, he was working with traffic due to being assigned to work on the east side of Liberty County. ADS Tilley stated that, while working with the traffic unit, he would respond to traffic stops and assist by utilizing his canine. With respect to the subject traffic stop, Deputy Tilley confirmed that he was unaware of the race of the bus driver or passengers until he was on scene.

Deputy Tilley stated that before having his canine conduct an open-air sniff during Sgt. Abbgly's traffic stop, the driver asked him if he should open the luggage bay. ADS Tilley said he then informed the bus driver it would be up to him. ADS Tilley stated that the bus driver voluntarily opened the luggage bay. ADS Tilley told me that during the open-air sniff, his canine showed a change of behavior and sat down, indicating to him that she detected the odor of narcotics.

ADS Tilley stated that he attended a 3-month course to become certified with his canine and has since trained monthly. ADS Tilley stated that he must train 16 hours a month with his canine; however, he attends more than 16 hours a month of canine training. ADS Tilley stated he is familiar with his dog and recognizes her change in behavior when she searches for narcotics and finds the odor. ADS Tilley stated that just because his canine sits down does not always mean she is responding to the odor of narcotics and that he watches her change of behavior followed by her sitting.

ADS Tilley informed me that because the canine alerted did not mean actual contraband was present because the canine only responds to the odor of narcotics. ADS Tilley stated that there could be a transfer odor that might cause the canine to alert. ADS Tilley informed me that his canine was trained to detect four different substances: marijuana, cocaine, heroin, and methamphetamine.

ADS Tilley recalled the interaction with everyone on the stop as professional and was informative if any questions were asked of him.

ADS Tilley did not have any additional information other than what was available from his BWC.



V. Applicable Law and Policy.

The following summary of select legal authority and applicable policy was prepared with the assistance of legal counsel for the LCSO. It is not offered as (and does not constitute) a legal opinion.

A. Summary of Select Law.

The following overview is not intended as an exhaustive analysis of the law relevant to this investigation. Rather, it is offered merely to provide some legal context which might be helpful in better appreciating the adjudication reached, particularly with respect to the legality of the traffic stop and attendant open-air canine sniff and baggage search.

1. *The Fourth Amendment*

The Fourth Amendment protects against “unreasonable searches and seizures.” U.S. Const. amend. IV. When deputies stop a motor vehicle, even for a brief period, a Fourth Amendment “seizure” occurs. Whren v. United States, 517 U.S. 806, 809-10 (1996). To comply with the Fourth Amendment, a deputy needs only reasonable suspicion to believe that a traffic violation has occurred. Heien v. North Carolina, 574 U.S. 54, 60 (2014). In contrast, reasonable and articulable suspicion of illegal drug activity is generally not required before a deputy may use a canine trained in drug detection to conduct an open-air sniff during a purportedly valid traffic stop. Illinois v. Caballes, 543 U.S. 405 (2005); United States v. Place, 462 U.S. 696, 707 (1983); Accord Bowens v. State, 276 Ga. App. 520 (2005).

However, deputies do not have unfettered authority to detain a person indefinitely, and a traffic stop may “last no longer than is necessary” to complete its mission (i.e., “to address the traffic violation that warranted the stop and attend to related safety concerns”). Rodriguez v. United States, 575 U.S. 348, 354 (2015); Accord, State v. Allen, 298 Ga. 1, 4-5 (2015). Consequently, law enforcement activities unrelated to the traffic mission, such as an open-air canine sniff of a motor vehicle, are prohibited to the extent they prolong the traffic stop. *Id.* Conversely, and while a canine open-air sniff is not part of the usual tasks associated with a traffic stop, it is allowed if it does not improperly prolong the traffic stop. *Id.* To unlawfully prolong a traffic stop, a deputy must “(1) conduct an unrelated inquiry aimed at investigating other crimes (2) that adds time to the stop (3) without reasonable suspicion.” United States v. Campbell, 970 F.3d 1342, 1355 (11th Cir.), reh'g en banc granted, opinion vacated, 981 F.3d 1014 (11th Cir. 2020), and on reh'g en banc, 26 F.4th 860 (11th Cir. 2022).

Generally, a trained canine’s alert to the presence of drugs during a traffic stop provides deputies with probable cause to search the vehicle and prolong the stop for such purpose. Florida v. Harris, 568 U.S. 237, 246 (2013); Accord, Hall v. State, 351 Ga. App. 695, 701 (2019).



2. *Statutory Authority for the Traffic Stop*

The bus was observed in violation of O.C.G.A. § 40-6-53(a), which provides as follows: “On roads, streets, or highways with three or more lanes allowing for movement in the same direction, it shall be unlawful for any bus or motorcoach to operate in any lanes other than the two most right-hand lanes, except when the bus or motorcoach is preparing for a left turn, is moving to or from an HOV lane, or as otherwise provided by subsection (c) of this Code section.” Subsection (c) applies only to “...interstate highways with four or more lanes allowing for movement in the same direction...” For purposes of Title 40, of which this Code section is a part, “bus means every motor vehicle designed for carrying more than ten passengers and used for the transportation of persons and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation.” O.C.G.A. § 40-1-1(7).

B. Summary of Applicable LCSO Policy.

While a number of LCSO policies are potentially implicated in any traffic stop, General Order No. 2.24 (Bias Based Profiling) is the most relevant to the complaints received in this matter, which provides, in part, that “[a]ll Deputies will exercise their law enforcement powers in a manner that does not discriminate against individuals based on race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group or any other identifiable group.” A copy of this policy is attached to and made a part of this Report.

VI. Standard of Review, Findings, and Adjudication.

A. Standard of Review.

In reaching findings in this matter, a preponderance of evidence standard was used, which is appropriate in an internal (administrative) investigation. Generally stated, this means that, in order to be substantiated, an allegation or factual proposition must be more likely than not, based on credible evidence.

B. Allegation.

It is alleged that LCSO personnel relied upon race in stopping a charter bus carrying the Delaware State University Women’s Lacrosse Team and in deciding upon the scope and substance of other investigatory activities, without probable cause or other legal justification, resulting in an illegal detention of the bus’s occupants and an illegal search.

C. Findings.

During another traffic stop, Sgt. Abby observed the charter bus traveling northbound on Interstate 95 in the far-left lane (or “fast lane”) of a three-lane section of the Interstate. Sgt. Abby noted that the bus was not actively passing any other vehicles and appeared to be merely traveling in the lane. Upon observing this potential violation and after terminating his then current traffic stop,



Sgt. Abbgly re-entered Interstate 95 (northbound). In the distance, Sgt. Abbgly could see that the bus was still traveling in the far-left lane. The bus remained in the far-left lane without apparent justification until Sgt. Abbgly initiated a traffic stop based on O.C.G.A. 40-6-53 (Buses or motorcoaches to operate in specified lanes). **Based on these observations, Sgt. Abbgly had reasonable suspicion to believe that a traffic violation occurred and was authorized to initiate the traffic stop.**

The bus is described as a plain white charter bus with dark tinted windows. Sgt. Abbgly did not observe any markings on the exterior of the bus to indicate its affiliation with a college or university. Prior to the traffic stop, and due to his vantage point and the dark tint and height of the bus windows, Sgt. Abbgly did not view the bus interior and was otherwise unaware of the demographic composition of the bus's occupants, including their race and gender. Once the bus pulled to the side of the Interstate, Sgt. Abbgly met with the driver, Mr. Jones, and the passengers to explain the reason for the stop. It was only at this time that Sgt. Abbgly became aware of the bus driver's and passengers' race.

ADS Tilley arrived on scene with his trained canine within approximately two minutes after commencement of the traffic stop. He was unaware of the racial composition of the bus's occupants until he was on scene.

Concurrently with the traffic stop and Sgt. Abbgly's performance of duties related thereto, ADS Tilley utilized his canine outside the bus to conduct a "free air sniff." This effort was aided by Mr. Jones, who volunteered to open the luggage bay of the bus during the open-air canine sniff. The canine first alerted to the odor of narcotics at approximately 10:34:45. Sgt. Abbgly was notified of the canine alert at 10:37:32 a.m. Prior to being informed of the canine alert, Sgt. Abbgly remained within the scope of his traffic stop.

Based on probable cause provided by the canine alert, Sgt. Abbgly was authorized to extend the scope and duration of the initial traffic stop to conduct a search of the bus (including baggage thereon) and perform related investigatory activities. A few bags which were in the immediate area of the canine's alert were searched with negative findings. While a much more comprehensive search was legally permissible, Sgt. Abbgly exhibited good judgment and professionalism by limiting the scope of the search.

The evidence shows that the open-air canine sniff occurred while Sgt. Abbgly conducted the mission of the traffic stop, and that it did not prolong the traffic stop at all. Additionally, Sgt. Abbgly made no inquiries aimed at investigating other crimes during the traffic stop and was otherwise reasonably diligent in the performance of all mission-related duties.

During the encounter, Sgt. Abbgly kept both the driver and passengers of the bus informed of the reasons for the traffic stop and other investigatory activities and was otherwise responsive to their questions. He also reassured them that the open-air canine sniff and baggage search were part of legitimate interstate interdiction efforts and were not intended to "single anyone out." All other



involved personnel remained professional during their encounters with the bus driver and passengers.

Additionally, the traffic stop was initiated based solely on an observed traffic violation and could not have been motivated by race, as Sgt. Abbgly was unaware of the occupants' race or their affiliation with an HBCU (Historically Black College or University) prior to making contact. Moreover, the decision to conduct an open-air canine sniff was made consistent with routine interstate interdiction practices of the LCSO, especially with respect to buses and large trucks. Sgt. Abbgly also confirmed that he is confident that race did not at any time influence his actions.

Sgt. Abbgly indicated that due to Mr. Jones' unfamiliarity with the Code Section under which the bus was stopped, as well as the duration of the encounter, he issued Mr. Jones a verbal (and not a written) warning and concluded the traffic stop.

The factual account of the encounter set forth elsewhere in this Report and not specially recited in this Section VI.C is also determined to be based on reliable evidence and is adopted in its entirety as formal findings.

Based on a review of the evidence discussed above, no violation of policy or law was observed.

D. Adjudication.

Based on the investigation memorialized by this Report, no credible evidence exists to support a violation of applicable law or policy, including, without limitation, General Order 2.24 (Bias Based Profiling). Rather, available evidence indicates that the law enforcement action under investigation was consistent with routine interstate interdiction practices and was in no way motivated or influenced by race. Therefore, Sgt. Abbgly, Cpl. Chapman, ADS (now Cpl.) Tilley, and Deputy Davis are **EXONERATED**, that is, while the traffic stop, open-air dog sniff, and resulting baggage search occurred, all law enforcement activities relating thereto were lawful and within policy.

VII. Conclusion and Disclaimer.

This Report is based on a thorough and impartial review of the available evidence (as described above) and is subject to correction for inadvertent errors or omissions, as well as revision based on additional and reliable evidence.

While this Report may be made available for public review under applicable law, it is intended solely for the benefit and internal use of the LCSO and no duties or rights, substantive or procedural, are created or implied by this Report. Consequently, neither this Report nor its contents shall serve as an admission of any kind on the part of either the LCSO, the Sheriff, or any involved personnel in any civil, administrative, or criminal proceeding, and no such persons (or



the LCSO) shall be deemed to have waived, relinquished, or otherwise limited any defense, immunity, or argument which might otherwise be available in any such proceeding.

Additionally, the assistance of legal counsel in the preparation and review of this Report shall in no way constitute a waiver of the attorney-client privilege and all protections afforded by virtue of such privilege and the communications and work product relating thereto are hereby preserved.

This Report concludes the investigation.

Respectfully submitted for your review.

/s/ Joshua Heath

Captain Joshua Heath
Internal Affairs

Attachments

1. General Order No. 2.24 – Bias Based Profiling
2. O.C.G.A. § 40-6-53 (Buses or motorcoaches to operate in specified lanes)
3. Encounter Timeline
4. Canine and Handler Certification

Note: BWC videos are available upon request or online at <https://www.libertyso.org>.

ACCEPTED this 16th day of May, 2023.

/s/ William Bowman

William Bowman, Sheriff
Liberty County, Georgia



ATTACHMENT 1

General Order No. 2.24 – Bias Based Profiling

[See Attached]



LIBERTY COUNTY SHERIFF'S OFFICE

General Order Number 2.24

BIAS BASED PROFILING

Issue Date: February 2, 2021 Revised Date:



PURPOSE

To establish a written policy that prohibits the use of bias-based profiling by Deputies of the Liberty County Sheriff's Office.

STATEMENT OF POLICY

It will be the policy of the Liberty County Sheriff's Office to prohibit the practice of bias-based profiling by Deputies of this agency in traffic stops, field contacts, or asset seizure and forfeiture efforts.

DISCUSSION

Law enforcement effectiveness requires public trust and confidence. Diverse communities must have faith in the fairness of the agency. Deputies must perform their duties and apply the law impartially and without prejudice or discrimination.

It is the practice of this agency to patrol, in a proactive manner, to aggressively investigate suspicious persons and circumstances, and to actively enforce the law. Citizens will only be stopped or detained when there exists reasonable suspicion to believe that a violation of the law has occurred.

DEFINITION

Bias Based Profiling - The selection of an individual based solely on a trait common to a group for enforcement action. This includes, but is not limited to, race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group or any other identifiable group.

I. GENERAL

1. All Deputies will exercise their law enforcement powers in a manner that does not discriminate against individuals based on race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group or any other identifiable group.
2. No Deputy will endorse or act upon stereotypes, attitudes or beliefs in a manner that could result in discriminatory or unlawful acts. Bias-based profiling may subject the Deputy to civil and or criminal liability.
3. Traffic stops will be based solely on the violation observed, without prejudice or discrimination of the vehicle's occupants when considering stopping or searching a vehicle.

II. TRAINING

It is the responsibility of the Training Deputy to:

1. Develop and deliver annual training to all Deputies in bias based profiling issues, including legal aspects.
2. Properly document all training received.

III. DISCIPLINARY ACTION

1. Consistent with any complaint of police misconduct, this agency will contact the reporting citizen alleging a violation of this policy and advise them of the disposition and action taken by the agency regarding the citizen's complaint of bias based profiling.
2. Members of the agency found to be in violation of this policy will be subject to remedial training and/or disciplinary action up to and including termination.

IV. REVIEW OF AGENCY PRACTICES

1. At least quarterly, the Patrol Commander will provide a statistical report including arrests and citations to the Bureau of Police Services Commander. The Commander will review the report to check for any indication that bias based profiling is occurring.
2. The Certification Manager will conduct an annual statistical report including arrests and citations. This report will be administratively reviewed by the Patrol Commander, Training Officer and Chief Deputy in order to reveal any patterns or trends that could indicate training needs or policy modifications.



ATTACHMENT 2

O.C.G.A. § 40-6-53 (Buses or motorcoaches to operate in specified lanes)

[See Attached]

West's Code of Georgia Annotated
Title 40. Motor Vehicles and Traffic
Chapter 6. Uniform Rules of the Road (Refs & Annos)
Article 3. Driving on Right Side of Roadway, Overtaking and Passing, Following Too Closely (Refs & Annos)

Ga. Code Ann., § 40-6-53

§ 40-6-53. Buses or motorcoaches to operate in specified lanes

- (a) On roads, streets, or highways with three or more lanes allowing for movement in the same direction, it shall be unlawful for any bus or motorcoach to operate in any lanes other than the two most right-hand lanes, except when the bus or motorcoach is preparing for a left turn, is moving to or from an HOV lane, or as otherwise provided by subsection (c) of this Code section.
- (b) On roads, streets, or highways with two lanes allowing for movement in the same direction, it shall be unlawful for any bus or motorcoach to operate in the left-hand lane, except when the bus or motorcoach is actually overtaking and passing another vehicle, preparing for a left turn, or as otherwise provided by subsection (c) of this Code section.
- (c) On interstate highways with four or more lanes allowing for movement in the same direction, the Department of Transportation may designate specific lanes that either prohibit or allow buses or motorcoaches. Where such usage has been so designated and indicated by signs erected by the Department of Transportation, it shall be unlawful for any bus or motorcoach to operate in any lanes other than those designated for its use except when moving to or from an HOV lane.
- (d) When moving to or from an HOV lane, a bus or motorcoach shall move to the proper lanes of travel expeditiously and in the shortest distance possible under the circumstances.

Credits

Laws 2004, Act 580, § 3, eff. May 13, 2004.

Ga. Code Ann., § 40-6-53, GA ST § 40-6-53

The statutes and Constitution are current through legislation passed at the 2022 Regular Session of the Georgia General Assembly. Some sections may be more current, see credits for details. The statutes are subject to changes by the Georgia Code Commission.



ATTACHMENT 3

Encounter Timeline

[See Attached]



Liberty County Sheriff's Office

Sheriff William N. Bowman
Liberty County Justice Center
201 S Main St #1300, Hinesville, GA 31313
Phone:(912) 876-2131 Fax: (912) 876-2179



ENCOUNTER TIMELINE

On April 20, 2022, the Liberty County Sheriff's Office traffic team was patrolling Interstate 95 when Sergeant Dennis Abby conducted a traffic stop on a charter bus at mile marker 73. A timeline of material events is as follows:

- At **10:30:37 A.M.**, Sgt. Abby exited his vehicle as his body-worn camera was activated.
- At **10:31:02 A.M.**, Sgt. Abby contacted the driver of the bus and explained the reason for the traffic stop.
- At **10:32:36 A.M.**, ADS Tilley arrived on scene and activated his body-worn camera.
- At **10:32:52 A.M.**, Sgt. Abby indicates to ADS Tilley to “go ahead and run it,” giving his assent to initiate the open-air canine sniff.
- At **10:33:00 A.M.**, Sgt. Abby spoke with the bus driver at the rear of the bus and explained that he planned to write a warning for the traffic violation.
- At **10:33:26 A.M.**, ADS Tilley brought his canine out of the patrol vehicle.
- At **10:33:36 A.M.**, Sgt. Abby entered his patrol vehicle to process the bus driver's information.
- At **10:33:37 A.M.**, the bus driver asked ADS Tilley if he should open the luggage bay, to which ADS Tilley replied, “If you want to.”
- The luggage bay was opened at **10:33:56 A.M.**
- ADS Tilley began the free air sniff with his canine at **10:34:24 A.M.**
- ADS Tilley responded to the canine with “Good Girl” several times before leaving the side of the bus at **10:35:14 A.M.**
- The canine first alerted to the odor of narcotics at approximately **10:34:45 A.M.**, indicated by ADS Tilley first stating “Good Girl.”
- Deputy Davis began removing bags from the luggage area at **10:35:20 A.M.**
- Sgt. Abby continued to speak with the bus driver while checking his information (license check). Sgt. Abby was in his vehicle dealing with the traffic stop from **10:33:36 A.M. to 10:37:32 A.M.**, when he was informed that the canine showed a positive alert on the bus.

- Sgt. Abby exited his vehicle to assist with the search and answer questions the bus driver had about the stop at **10:38:39 A.M.**
- At **10:40:49 A.M.**, Sgt. Abby boarded the bus to explain to the passengers why the search was being conducted. During this time and when explaining interstate interdiction practices, he reassured the passengers that “we don’t single anybody out.”
- Sgt. Abby exited the bus to assist with the baggage search at **10:43:30 A.M.**
- Sgt. Abby returned the license to the bus driver at **10:51:58 A.M.**
- At **10:52:05 A.M.**, Sgt. Abby reboarded the bus to inform the passengers that the stop was complete.
- Sgt. Abby turned off his body-worn camera prior to entering his patrol car at **10:52:30 A.M.** No written warning is produced; only a verbal warning is given to the bus driver.

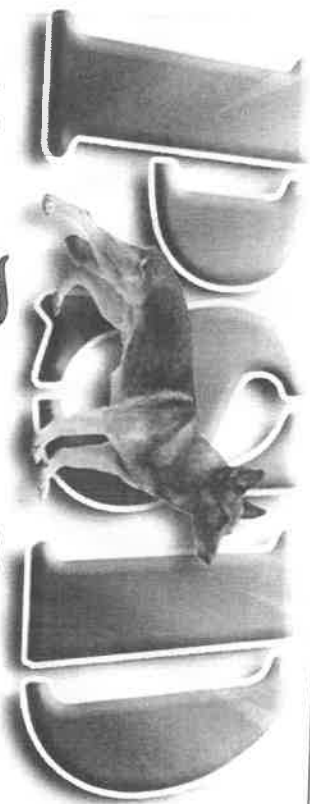
Note: The timing of events is based on a review of time stamped BWC video. To the extent any minor discrepancies exist in the times stipulated in this timeline and such video evidence, the video evidence will control.



ATTACHMENT 4

Canine and Handler Certification

[See Attached]



*Police Service Dogs Training Center
Oxford, Florida*

Certificate of Completion

AWARDED TO:

Joshua Tilley & K9 Kona

FOR A SUCCESSFUL COMPLETION OF A **480** HOUR COURSE IN
Basic Handling & Narcotics Detection

THIS **2nd** DAY OF **July** 2021

Joshua K. [Signature]
Training Director



To all present: Greetings

BE IT KNOWN THAT:

Jessie T. King
whose signature appears below, and the dog

Korin

Breed: Dutch Shepherd

Sex: Female

has met the standards established by NNDDA Inc. for the year indicated and for the drugs listed on the qualification records.

[Signature]
Signature

Liberty Co, GA 3/4/22
Location Date

	Pass	Fail	
Marijuana	<u>PA</u>	_____	
Cocaine	<u>PA</u>	_____	N/A
Heroin	<u>PA</u>	_____	
Meth	<u>PA</u>	_____	
Other	_____	_____	
Other	_____	_____	



To NNDDA Standards PA
To State Standards +
To Federal Standards _____

[Signature]
Certifying Official GA7523
CO Number

Location Date
Pass Fail

Marijuana	_____	_____	
Cocaine	_____	_____	N/A
Heroin	_____	_____	
Meth	_____	_____	
Other	_____	_____	
Other	_____	_____	

To NNDDA Standards _____
To State Standards _____
To Federal Standards _____

Certifying Official _____
CO Number