



Galveston Police Department Initial Case Narrative & Field Identification Supplement

				No:	2008-00060230
Type of Incident:	Resisting Arrest			Date of Incident:	10/5/08
Incident Location:	5222 Seawall Blvd			Complainant:	State of Texas
Reporting Officer:	N. McDermott	Badge #:	407	Date of Report:	10/5/08

Introduction:

This report will document the events regarding the arrest and warrant request for Brandon Backe (W/M: ██████████) for the offenses of interfering with Police Officer and resisting arrest search and transport.

Scene Description:

The dimly lighted, noisy, crowded H2O bar located at 5222 Seawall Blvd.

Details:

On Sunday 10/5/08 at approximately 12:10am, while patrolling in a marked Galveston Police Unit and in full Galveston Police Uniform, I Officer McDermott # 407, heard via radio Officer Sanderson # 435 request assistance to the H2O bar, located at the San Luis Hotel (5222 Seawall Blvd) in reference to a disturbance involving several subjects interfering with an arrest. Upon arrival I heard via radio an Officer request EMS advising that Officer Garcia # 733 had blood all over him I then proceeded to run towards the H2O bar from the lower parking area.

As I approached the H2O bar I observed the bar area to be extremely crowded and loud. I then proceeded to make my way through the crowd towards the far Northeast corner of the bar area. As I reached the area I observed Officer Garcia # 733 standing up with his uniform in a disarray and a subject lying on the ground handcuff. While in the area I observed the large crowd to start converging on myself and other Officers. I then observed several other scuffles start to break out and then myself and other officers then started attempting to clear out the crowd. As we attempted to clear out the crowd and keep the crowd from closing in on our position I observed several subjects refusing to move. As more fights continued to break out I proceeded, to the West walkway leading up to the Northeast portion of the bar, in an attempt to move the crowd back.

While attempting to move the crowd back on the walkway several subjects were pushing causing the crowd to continue to converge on the initial arrest area. I then observed a W/M subject, later identified as Brandon Backe (W/M ██████████) to be in the front of the crowd attempting to move closer to the initial area. I then proceeded to give Brandon several verbal warning to get back and leave the area. Brandon continually replied using profanity stating that we (the officers) had enough room and that he did not need to back up. Due to Brandon failing to comply with verbal commands and due to the fact that I believed that his refusal to obey verbal commands would insight the crowd further I grabbed a hold of the front of Brandon's shirt and then turned his body around while leaning his chest up against the wall, in an effort to gain an advantaged position in order to handcuff him and place him under arrest for interfering with a police officer. Once I had Brandon's chest up against the wall I pulled his right arm back behind his back while taking out my

handcuffs with my left hand. I then proceeded to attempt to handcuff Brandon. As I attempted to handcuff Brandon, he pulled away from me. I then grabbed a hold of Brandon and attempted to take him to the ground, in an effort to gain a tactical advantage on him so I would be able to place him in hand cuffs. As I took Brandon to the ground he fell into a bushy area, located near the walkway. I then attempted to get on top of Brandon's back. As I was attempting to get on top of Brandon's back, Brandon pushed himself off of the ground causing me to fall off of him and onto the ground. As Brandon attempted to get up several other Officer then attempted to assist in taking Brandon into custody. While struggling with Brandon I gave him several verbal commands to stop resisting and to place his hands behind his back. I also heard several other Officer advising Brandon to stop resisting and to place his hands behind his back as well. Brandon continuously refused all verbal commands to remain on the ground and to place his hands behind his back. Brandon was also pushing and pulling throughout the struggle to attempt to get up off the ground and away from myself and other officers. While continually struggling with Brandon I observed Brandon get back onto both of his knees and hands and attempt to get up again. I then administered approximately 2 closed hand strikes to Brandon's facial area. At that time myself with several other officers were finally able to get Brandon's hands behind his back. After getting Brandon's hand behind his back I secured Brandon in handcuffs without further incident.

After placing Brandon in handcuffs I placed my knee on Brandon's back to keep him on the ground while other officers continued to clear out the crowd. After the crowd was cleared I assisted Brandon to his feet and escorted him towards my patrol unit. While escorting Brandon I could smell a strong odor of an alcoholic beverage emitting from his breath and person. I also observed Brandon's eyes to be blood shot.

Brandon was then placed into the patrol unit. After placing Brandon in the patrol unit I felt blood running down my nose from a small laceration located on the bridge of my nose. I also observed my uniform to be at a disarray and to have scraps on both my left and right knee as well as my right elbow.

I observed Brandon to have dried blood around his nose area as well as small swelling to be located on both sides of Brandon's face near the eye region.

I then photographed Brandon's injuries and had Officer Ferguson # 416 photograph my injuries.

Brandon was then transported to the Mobile Jail, located in the west parking lot of the Justice Center (601 54th Street) due to the Hurricane IKE situation.

Case Disposition:

Report filed. Brandon Backe (W/M: [redacted]) was arrested for the offense of interfering with police officer and a warrant was requested for his arrest for the offense of resisting arrest search and transport.

Photographs related to this offense have been uploaded to the Galveston Police Department Photo Server and have been saved in the Year/Month Folder with the assigned file name consisting of the offense case number. Below is a list of the photographs taken in this case along with a brief description of each photograph.

Photographs:	Yes:	XX	No:		Number of Photographs Taken:	11
Image #	Description					
DSCN3058	Over frontal view of Brandon					
DSCN3059	Over view of Brandon's face					
DSCN3060	Close up View of the right side of Brandon's face					

DSCN3061	Close up View of the left side of Brandon's face
DSCN3062	Close up of the front of Brandon's face
DSCN3063	Over view of Brandon's back area
DSCN3064	Over view of Ofc McDermott
DSCN3065	View of scratch to the bridge of Ofc McDermott's nose
DSCN3066	View of scrap marks on Ofc McDermott's pants
DSCN3067	View of scraps to Ofc McDermott's knees
DSCN3068	View of scrap to Ofc McDermott's right elbow.

Latent Prints:	Yes:	No:	XX	Number of Latent Prints Submitted:	0
Location Processed				Results	

Item #	Description/Location	Disposition of Evidence
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Galveston Police Department

No: 2008-00060230

Type of Incident: Assault on a Public Servant/Retaliation

Date of Incident: 10-05-2008

Reporting Officer: C. Garcia

Badge #: 733

Date of Report: 10-05-2008

Synopsis:

On 10-05-2008, at approximately 0:11 hours, I heard Officer C. Sanderson #435 make a radio transmission stating that he had one subject under arrest at 5222 Seawall (H20 Bar) and had bystanders interfering with his arrest. At that time, Myself and Officer Longoria #439 responded from 53rd and Ave S.

Details:

Upon arrival at the H20 bar, I stepped out of my Police Unit and entered the bar area through the entrance off the front drive of the San Luis Hotel. I observed a large crowd of people inside of the bar. Some bystanders pointed towards the back part of the bar near the bathrooms. As I approached the area around the bathrooms and observed Officer C. Sanderson #435 surrounded by a group of individuals. I made my way through the crowd and heard Officer Sanderson telling a male white that he was under arrest and attempting to gain control of the male white. I observed the male white actively resist Officer Sanderson by pulling away from him and pushing him away with open hands. I heard Officer Sanderson say "stop resisting" and deployed his Asp Baton and strike the white male approximately three (3) times on his right leg and thigh area. At this time, I observed the crowd close in and actively interfere with our attempts to arrest the male white. I heard the male white state "f—k you ni—er!" I then grabbed the male white by his shirt with both hands and ordered him to turn around and place his hands on the wall. The male white pulled away and his shirt ripped at the shoulder level. The male white was shouting "f—k you" repeatedly and then struck me on the left side of my face with a closed fist. Due to the close proximity of the crowd and the aggressiveness of the male white, I began applying closed hand strikes (approximately four (4) times) to the face and head of the male white as he resisted arrest. I ordered the male white to the ground multiple times. The male white continued to resist and stated "f—k you ni—ers" and struck me two (2) more times on the left side of my face. I observed another male white, who I later learned was the first male white's father, Gilbert O'Balle W/M [redacted] begin to interfere and try to pull Officer Sanderson away from his son. O'Balle was pushed away by Officer Sanderson where he complied. I then heard Officer Longoria #439 state that he was going to taser the male white. I continued to hold onto the male white when he was tasered. I released the male white and he fell to the ground. The male white stopped resisting and was handcuffed without further incident.

The male white was identified as Cole O'Balle M/W [redacted] While on the ground, I heard O'Balle state "one eight seven (187) on you mother f—king cops". I then heard O'Balle ask "who the f—k is that cop with the glasses?" I heard Officer Longoria tell O'Balle that his name would be on the paperwork. I then heard O'Balle state loud and clear "you f—king cops are dead!" I took O'Balle's statements as threatening and believable.

Pepper spray was deployed by Officer Sanderson on several subjects interfering on O'Balle's arrest. I was affected by the spray and had to walk away from the scene. I returned to the scene and picked O'Balle

Approved by
Supervisor

Badge #:

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Galveston Police Department

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Type of Incident: Assault on a Public Servant/Retaliation

Date of Incident: 10-05-2008

Reporting Officer: C. Garcia

Badge #: 733

Date of Report: 10-05-2008

up off the ground and escorted him towards my Police Unit. O'balle continued to be belligerent and use profane and abusive language on the way to my Police Unit.

O'Balle sustained a large laceration to the left side of his head approximately two (2) and a half inches above his ear. O'Balle bled from his head injury profusely. O'Balle's blood was on the front of my uniform shirt, on the back of my uniform shirt, and both of my arms.

I sustained two (2) lacerations to my right forearm, a scratch to my left wrist, slight swelling to the left side of my face, and a knot to my forehead caused from the physical altercation with O'Balle. I also sustained bruising and moderate swelling to my upper left knee as a result of the physical altercation with O'Balle. While being assaulted by O'Balle, I felt immediate and sharp pain to my face, head, and left knee.

O'Balle was later Life Flighted to Herman Memorial Hospital due to the inability to treat O'Balle's injuries at U.T.M.B.

Case Disposition:

O'Balle was arrested and charged with three (3) counts of Assault on a Public Servant, \$25,000.00 bond each, and two (2) counts of Retaliation, \$20,000.00 bond each. Bonds totaled \$115,000.00.

Approved by
Supervisor

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Galveston Police Department

No: 2008-00060230

Type of Incident: Assault on a Police Officer X3 / Retaliation
X2 / Interfering w/ Public Duties

Date of Incident: 10/05/2008

Reporting Officer: C. Sanderson

Badge #: 435

Date of Report: 10/05/2008

Synopsis:

This report will document the arrest of Cole O'Balle (W/M DOB: [REDACTED]), and Gilbert O'Balle (W/M DOB: [REDACTED]). This report will also document the warrant request for the arrest of Trudy O'Balle (W/F DOB: [REDACTED]).

Details:

On 10/05/2008 at approximately 00:10 hrs, I was employed by The San Luis Resort as a uniformed Galveston Police Officer.

A Security Officer who was identified as Carlos Gonzales approached me at The San Luis Pool Bar area and pointed a subject out to me. The subject that Ofc. Gonzales pointed out to me was later identified to me as Cole O'Balle (W/M DOB: [REDACTED]). Ofc. Gonzales explained to me that Cole was removed from The Convention Center for causing problems only moments before entering The Pool Area, and that Cole entered The Pool Bar area with his own alcoholic beverage. From previously working this bar I am aware that outside beverages are not allowed because it is a licensed premises.

Ofc. Gonzales and I approached Cole and I asked from him to step aside so I could speak with him. When Cole turned towards me he threw a 12 oz Bud-Light can to the ground and stepped towards me so I could speak with him. I noticed that Cole appeared to be intoxicated and seemed to be very upset with me for wanting to talk to him. Ofc. Gonzales and I walked with Cole to an area just north of where he was standing where no one was located and it wasn't loud.

When attempting to speak with Cole I asked about the Bud-Light can he had in his hand and asked what previously took place at The Convention Center. Cole took a step back from me, assumed a fighting stance, and raised his hands with closed fists and appeared to want to fight with me. Once Cole assumed the fighting stance several subjects surrounded me and began to interfere with my investigation. I was able to contact dispatch via radio and requested assistance.

When I became surrounded by several subjects I deployed my ASP baton and took a defensive stance and I began to order people back. I stated to several subjects that Cole was under arrest and that they were interfering with my arrest. I was able to identify two of the subject's that were interfering and they were identified as Gilbert O'Balle (W/M DOB: [REDACTED]), and Trudy O'Balle (W/F DOB: [REDACTED]).

I ordered Mr. & Ms. O'Balle to step back because they were interfering with my arrest and that Cole was under arrest. Ms. O'Balle began to push me back away from Cole by using both her hands.

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Supervisor

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Galveston Police Department

No: 2008-00060230

Type of Incident: Assault on a Police Officer X3 / Retaliation
X2 / Interfering w/ Public Duties

Date of Incident: 10/05/2008

Reporting Officer: C. Sanderson

Badge #: 435

Date of Report: 10/05/2008

Several Officers began to arrive on scene, Ofc. C. Garcia #733 and I then attempted to take Cole into custody. Cole began to violently swing his arms, struck me in the upper chest area with a closed fist, and he began to violently strike Ofc. Garcia in the face with a closed fist.

I was able to deliver several baton strikes to Cole's legs and several to his arm with my ASP Baton. Mr. & Ms. O'Balle where still attempting to interfere by trying to push the officers away, at that time I deployed a long burst of Pepper Spray (OC) towards the O'Balles along with the crowd surrounding the officers.

The baton strikes did not appear to affect Cole and he still continued to violently swing towards officers. Ofc. Longoria #439 was able to deploy his X-26 Taser on Cole; the Taser had an immediate effect and Cole fell to the ground.

Once Cole was Tased and placed into handcuffs Mr. O'Balle began to aggressively approach the officers handcuffing Cole Ofc. Longoria was able to Deploy his X-26 Taser on Mr. O'Balle. While Cole was lying on the ground he stated " 187 on you mother fucking cops, who the fuck is that guy in the glasses. You fucking cops are dead." This statement was made while Cole was looking at Ofc. Garcia and I. I felt threatened by this statement that Cole made.

Once Cole and Gilbert where taken into custody I called dispatch via radio for Ofc. Garcia. I observed a large amount of blood on his shirt both front and back. I feared that he was severely injured. I later discovered that the blood belonged to one of the suspects and not Ofc. Garcia.

Both subjects where handcuffed and escorted to the entrance of The Pool Bar. I was unable to locate Ms. O'Balle and several other subjects began to interfere and resist several other officer that where on scene.

During the entire incident Simon Randolph (W/M DOB: [REDACTED]) was standing only a few feet away from me and was able to observe the entire incident along with Security Ofc. Gonzales.

Ofc. J. Loyd #394 was on scene and processed it as the Field ID Officer (See 394 ID- Supplement for further).

Galveston EMS was called to the scene to treat Cole O'Balle for a head laceration and several others pepper spray irritations. Cole was transported by Air Ambulance to Herman Memorial Hospital in Houston to be treated because UTMB was not fully opened due to the recent Hurricane IKE.

Cole O'Balle was charged with three counts of Assault on a Public Servant with total bonds of \$75,000.00, and two counts of retaliation with a total of bonds at \$40,000.00. This case was filed in JP-1 with a total of \$115,000.00 bond. Bonds where set per ADA Felicia Kerney.

Approved by
Supervisor

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Galveston Police Department

No: 2008-00060230

Type of Incident: Assault on a Police Officer X3 / Retaliation
X2 / Interfering w/ Public Duties

Date of Incident: 10/05/2008

Reporting Officer: C. Sanderson

Badge #: 435

Date of Report: 10/05/2008

Gilbert O'Balle was charged with Interfering with Public Duties with a bond set at \$1,500. This case was filed in JP-1. Trudy O'Balle was unable to be located once the large disturbance was over and I am requesting a warrant for her arrest. I will be requesting a warrant for Interfering with Public Duties out of JP-1 with a bond to be set at \$1500.00.

Please refer to all other supplements to this case for any further information in regards to this case.

Case Disposition:

Report Completed.

Approved by
Supervisor

Badge #:

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Galveston Police Department

No: 2008-60230

Type of Incident: Assault on Public Servant/ Major
Disturbance

Date of Incident: 10-05-2008

Reporting Officer: Lt. J. Caldwell

Badge #: 339

Date of Report: 10-05-2008

SUPPLEMENTAL REPORT

On 10-05-2008 I was in my office at the Joe Max Taylor Criminal Justice Center when I heard Officer C. Sanderson #435 state over the main radio channel that he had a suspect resisting arrest at the H20 bar located at 5222 Seawall Blvd. I could also hear a disturbance in the background. I responded to the location along with several other officers. Upon my arrival I observed a large crowd at the bar and an active scuffle occurring in the back (north) part of the bar. I observed several officers attempting to take several suspects into custody and the suspect's actively fighting with officers and also amongst themselves. At this time there were approximately seven to ten individuals actively fighting, wrestling and engaging in a physical skirmish. Officers were still arriving and I ordered the bar emptied of patrons due to the fact the fighting was working its way into the main portion of the bar and the city curfew was also in effect. I observed that there were several officers and agents in the north portion of the bar attempting to break up the fight and either disperse individuals or arrest suspects.

I had further arriving officers form a skirmish line from east to west in the center portion of the bar and have all patrons exit the bar. Approximately 10 officers formed a line and removed all patrons onto the main drive of the San Luis Hotel. During this process some individuals were arrested as new skirmishes developed. I would estimate the crowd at the bar at approximately 200 people. I would describe the scene as a riot as there were more than 8 individuals involved in illegal conduct which caused an immediate breach of the peace.

I took a position atop one of the ledges near the main bar so that I could observe the actions that were taking place and further direct officers where needed. At approximately this time Sgt. Mitchell #343 called me on the radio and informed me that he needed me at the front of the hotel. I responded to find Sgt. Mitchell telling a Hispanic Male in a blue shirt to exit the area and enter the hotel. The male refused several commands by Sgt. Mitchell and then identified himself to me at the "Director of FEMA Operations" and stated he was not going anywhere. I told him he needed to get into the hotel. I gave him this direction for several reasons: The scene was not secure and he and everyone else was in danger due to the fact that fights were still breaking out in the immediate area, he was depleting our resources as a sergeant and a lieutenant had to stop what they were doing to deal with him and he was in violation of a lawful order given multiple times by Sgt. Mitchell. The Male later identified as Jaime Forero stated to me that he had called the city manager and the chief and he was not going anywhere. I placed him into custody and Sgt. Mitchell and I led him to a patrol car where I activated my in car video (see Mitchell's report for further details). While being led to the car Mr. Forero stated that we were making a huge mistake and we would both be without jobs in the morning. He also continued to tense his arms and attempt to pull away from my control several times during the walk. I removed his FEMA identification and observed that he was a federal employee. He was placed into a police vehicle and I resumed command of the scene.

Upon returning to the main entrance (south) of H20 I observed there were several individuals handcuffed and sitting on the ground awaiting transport. I directed that they be transported to the county jail and housed in

Approved by
Supervisor

Badge #:

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Galveston Police Department

No: 2008-00060230

Type of Incident: Assault on a Public Servant/Interfering

Date of Incident: 10/05/2008

Reporting Officer: Longoria

Badge #: 439

Date of Report: 10/05/2008

Cole was then taken to the hospital for treatment while Gilbert was arrested and taken to the Galveston County Jail for the offense of Interfering with Police.

Field ID Ofc. Loyd #394 arrived on scene to process the scene.



Galveston Police Department

No: 2008-00060230

Type of Incident: Assault on a Public Servant/Interfering

Date of Incident: 10/05/2008

Reporting Officer: Longoria

Badge #: 439

Date of Report: 10/05/2008

Supplement:

On 10/05/2008 at approximately 12:11 am myself and Ofc. Garcia #733 were riding as a two-man unit when we heard Ofc. Sanderson #435 request additional units via radio to the H2O Bar at The San Luis Hotel. Sanderson advised he was working extra employment at the time and was encountering a subject who refused to cooperate with him.

Upon arrival I walked into the bar area behind Garcia when I observed Sanderson giving stern verbal commands to a w/m who was later identified as Cole O'Balle (w/m dob). I then observed Garcia attempt to place Cole into custody and it was at this point, I observed Cole begin striking Garcia in the facial area with closed fists. I then observed Sanderson attempt to prevent Cole from further striking Garcia and it was at this point Cole also began striking Sanderson in the facial area with closed fist. I observed Sanderson then remove his impact weapon from his duty belt and began delivering strikes to Cole. By this time I then stepped in to attempt to place Cole into custody and it was at this point Cole struck me once on the right side of my head area slightly above my right ear causing minor pain. I am unsure of which hand Cole struck me with.

I then stepped back and removed my Taser X26 energy weapon from my duty belt. As I continued to observe Cole actively fighting Garcia and Sanderson, I looked for a clear spot on Cole's person to effectively deploy my Taser. I observed a clear opening on Cole's abdomen area and it was at this point I yelled "I'm going to Tase him", several times. I then deployed my Taser X 26 and I observed to two leads to pierce Cole's outer clothing near his abdominal area. The deployment of my Taser had an immediate effect on Cole. I observed Cole to finally drop to the ground where after the 5-second cycle was complete, Cole was taken into custody. I observed a laceration to Cole's head area.

By the time we placed Cole into custody and placed in the rear of our patrol unit, several other Galveston Police officers arrived on scene and began clearing the bar and telling people to leave the bar. I also began clearing the bar and told several people to leave the bar. After I made my way to the front entrance of the bar, a w/m who was later identified as Gilbert O'Balle (w/m dob _____), walked up to me and began asking, "why is my son all bloody". Sgt Mitchell #343 was near me at this time. I advised Gilbert his son was in our custody and I requested Gilbert to leave the premises. Gilbert refused and continued to attempt to walk past me to see his son. I advised Gilbert several times to follow my orders and leave the premises or he would be tased and taken into custody. Gilbert continued to disobey my orders and it was at this time I loaded my spare Taser cartridge into position and turned on the Taser. I gave Gilbert one last order to leave the property, which Gilbert ignored. I observed Mitchell to attempt to take Gilbert into custody and as he did this I observed Gilbert pull his right hand away from Mitchell. Due to Gilbert's aggressive gesture I deployed my Taser X-26 to Gilbert's person. I observed the Taser to have an immediate effect on Gilbert. I observed Gilbert drop to the ground and after the 5-second cycle was completed Mitchell took him into custody. Gilbert was placed in the rear of a patrol unit without further incident.



Galveston Police Department

No: 2008-60230

Type of Incident: Assault on Public Servant/ Major
Disturbance

Date of Incident: 10-05-2008

Reporting Officer: Lt. J. Caldwell

Badge #: 339

Date of Report: 10-05-2008

the booking area until the situation could be resolved. I contacted Captain Porretto #986 and Chief Wiley #605 and advised both of them of the situation. Chief Wiley made the scene and observed the situation. As this was occurring I was advised by Officer C. Sanderson that an arrestee by the name of Cole Oballe was being prepared for transport by Life Flight due to injuries he had received during the disturbance. I made sure that officers had a proper landing zone set up for the helicopter. I spoke to Chief Wiley about the arrest of Mr. Forero and the decision was made to issue him a citation and release him at the scene.

I cited Mr. Forero for fail to obey lawful order of a police officer and released him, it was obvious that Mr. Forero had been drinking alcohol as I could smell it on his breath. I asked him how much he had to drink and he refused to answer several times.

I resumed command of the scene and directed Officer Durr to ride in the helicopter with Mr. Oballe and maintain security of him in Houston. I directed Sgt. Owens to stay at the jail and advise on the number of arrestees and the charges against each individual. I returned to the justice center and completed this report and a significant memo regarding the incident.

Approved by
Supervisor

Badge #:

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