

THE RUTHERFORD INSTITUTE

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Via Email, Facsimile, and U.S. Mail

Charlottesville City Council
605 E. Main St.
Charlottesville, VA 22902

Re: *April 2013 ABC Enforcement Officer Incident*

Dear City Council Members:

I write to you today not just as president of The Rutherford Institute,¹ or as an attorney who has spent the greater part of his career actively working against the threat of government overreach, but as a concerned member of our tight-knit community here in Charlottesville, Virginia.

Details of an incident which occurred in April 2013 and have only just come to light are emblematic of the growing problem of overzealous and outright dangerous action by increasingly militarized police forces. Late in the evening on April 11, 2013, Elizabeth Daly, a young college student at the University of Virginia, was leaving the Harris Teeter grocery store at the Barracks Road Shopping Center carrying a variety of foodstuffs for a sorority charity benefit that evening. When Elizabeth approached her vehicle in the darkened parking lot, she was met by more than half a dozen screaming and gun-wielding men in dark clothing.

Justifiably petrified, Elizabeth and her two roommates attempted to flee the parking lot to safety in her SUV, immediately calling 9-1-1 once clear of the danger. As a result of this incident, Elizabeth was charged with three felonies carrying a potential of five years in jail each. The identity of the plainclothes individuals: Virginia Alcohol Beverage Control Enforcement Officers. Elizabeth's grievous offense: purchasing cans of sparkling water.

¹ The Rutherford Institute is a non-profit civil liberties organization that provides free legal representation to individuals whose civil rights are threatened and infringed.

From full tactical SWAT teams executing no-knock search warrants on the homes of law-abiding citizens over nothing more than a suspicion that the occupant owns a gun² to the unlawful arrest and forced institutionalization of decorated military veterans over Facebook posts critical of the government³, the events described above are becoming all too familiar in cities and towns across the country. The hyper-militarization of local and city police forces is becoming a problem that needs to be addressed. There is absolutely no justifiable reason that state alcohol enforcement officials need to be in possession of \$750,000 “Field Support Vehicles” with a capabilities list that reads like it belongs in a Hollywood spy movie,⁴ yet these or similar types of technologies are being implemented here in our community, endangering our residents.

Indeed, in a similarly brazen display of militarized force this past May, a joint task force of SWAT, Homeland Security, and Immigration Customs Enforcement agents laid siege to a Rugby Road home in order to shut down a fake ID operation.⁵ Local police were not informed of the raid until immediately before it was to take place (to our knowledge, local police were altogether unaware of the ABC “sting” operation). Both of these incidents raise an important question about jurisdiction and chain of command, not just in terms of military/police operations, but in the community at large and local government. This sort of complete abdication of local power to federal law enforcement officials who are unaccountable to the local population must be put to an end, otherwise we are on a short path to a voluntarily-created police state. Commenting on this story, local historian and talk show host Coy Barefoot said it best: “Just a few days before we celebrate the anniversary of our nation’s birth. It’s simply this: NOT HERE. That’s the response these ABC Agents and the Commonwealth of Virginia need to hear loud and clear from our community: NOT HERE... The line must be drawn somewhere. It must start somewhere.”⁶

Equally disturbing is the reaction by ABC officials to the public outrage over this incident. One ABC official was quoted as saying “this whole unfortunate incident could have been avoided had the occupants complied with law enforcement requests.”⁷ Even assuming that these justifiably terrified young women had known that they were dealing with law enforcement officials, this type of attitude runs completely counter to the letter and spirit of the Fourth Amendment. If it stands for anything, the Fourth Amendment stands for the idea that the burden is on law enforcement officers to provide us, the law abiding public, with a justification for their encroachment on our daily lives – not the other way around.

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https://www.rutherford.org/publications_resources/tri_in_the_news/texas_gunowner_appeals_no_knock_raid_on_his_home

3

https://www.rutherford.org/publications_resources/on_the_front_lines/victory_circuit_court_orders_brandon_raub_released_dismisses_case_against_m

⁴ <http://www.abc.virginia.gov/newsrel/press20130513.html>

⁵ <http://www.readthehook.com/109570/rugby-road-lockdown-militarized-police-bust-fake-id-ring>

⁶ <https://www.facebook.com/coybarefoot/posts/10200128723476204>

⁷ http://www.dailyprogress.com/news/bottled-water-purchase-leads-to-night-in-jail-for-uva/article_b5ab5f62-df9b-11e2-81c4-0019bb30f31a.html

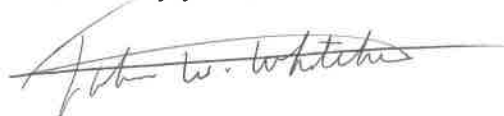
Even if the ABC enforcement officials had been correct in their assumptions, and Elizabeth had illegally purchased alcohol as a minor, would the response by the ABC agents have been justified? Is a full militarized team of non-police officers really necessary for the enforcement of underage drinking laws? I submit that it is not. And I would ask the Charlottesville City Council to publicly condemn the actions that took place this past April, and to take steps toward de-militarizing the local police and ABC forces in order to prevent such actions from ever occurring again. Moreover, even though this incident occurred in the City, it just as well could have happened in the County, and it is my hope that the City Council and Board of Supervisors will both be proactive in prioritizing the rights of all of their citizens against this rapid advancement toward a police state.

Further, I would ask that the City Council initiate a thorough investigation of those responsible for this incident and take appropriate action against its perpetrators. Such an investigation should not take place internally, and should be completely independently conducted. History and experience have shown that the police should not police themselves, and that formal policies protecting police officers from public scrutiny by hiding their identities does nothing more than to make their conduct even more brazen.⁸

If not, it is only a matter of time before an incident like this ends in tragedy. If Elizabeth had been armed and attempted to defend herself against what she justifiably believed to be a group of unknown attackers, she or one of the officers very well could have ended up killed or seriously injured, over nothing more than cans of sparkling water.

If I can be of assistance to you in this matter, please do not hesitate to contact me.

Sincerely yours,



John W. Whitehead
President

cc: Albemarle County Board of Supervisors
Timothy Longo, Charlottesville Chief of Police
Steve Sellers, Albemarle County Chief of Police

⁸ <http://www.readthehook.com/109682/birdwood-shooting-city-releases-name-cop-albemarle-refuses-again>