



INTER-OFFICE COMMUNICATION

TO: Joel Moreno, Chief of Enforcement
FROM: Andy Pena, Captain, OPR
SUBJECT: C09-009
DATE: 07-31-09

Employees: Agent Christopher Aller #386
Enforcement Division
Fort Worth District Office

Agent-Trainee Jason Chapman #454
Enforcement Division
Fort Worth District Office

Sergeant Terry Parsons #83
Enforcement Division
Fort Worth District Office

In compliance with your instructions, I have conducted an investigation and submit this report.

OBJECTIVE

To determine if TABC policies and procedures were followed by Sergeant Terry Parsons and Agents Christopher Aller and Jason Chapman in the following events:

- (1) Red Bull X-Fighter Freestyle Motocross event on 06-27-09
- (2) Bar inspections with the Fort Worth Police Department at the Rosedale Saloon, Cowboy Palace, and the Rainbow Lounge from June 25 through June 28, 2009¹

BACKGROUND

Agent Christopher Aller:

- Joined TABC on 04-04-04
- Stationed at Dallas District Office
- Transferred to Fort Worth District Office on 10-15-08

¹ Allegations that Agents Chapman and Aller used excessive force during the inspection of the Rainbow Lounge are being investigated under Complaint #C09-012. That investigation is in progress as of the date of this report

Agent-Trainee Jason Chapman:

- Joined TABC on 04-01-09
- Stationed at Fort Worth District Office

Sergeant Terry Parsons:

- Joined TABC on 09-01-89
- Promoted to Sergeant on 08-01-99
- Transferred to Fort Worth District Office on 06-24-02

INVESTIGATION

Agent Christopher Aller

It is alleged Agent Christopher Aller:

- (1) Participated in a joint operation (bar inspections) with the Fort Worth Police Department on 06-28-09 without approval
- (2) Failed to submit a complaint card against the Rainbow Lounge for investigation of possible lewd conduct and sale to intoxicated persons on 06-25-09
- (3) Failed to follow instructions on Operational Plan of Red Bull X-Fighters Freestyle Motocross special event on 06-27-09 (left prior to end of assigned shift without approval)
- (4) Conducted pre-arranged bar inspections at the Rosedale Saloon, Cowboy Palace, and the Rainbow Lounge on 06-28-09 in unapproved attire (special event uniform)
- (5) Failed to follow bar inspection procedures on 06-28-09 at locations listed under allegation #4
- (6) Failed to report use of force incident involving arrest of Chad Gibson during bar inspection at Rainbow Lounge on 06-28-09
- (7) Failed to report injury of person (Chad Gibson) arrested during bar inspection at Rainbow Lounge on 06-28-09
- (8) Disruption of business during bar inspection of Rainbow Lounge on 06-28-09

If true, the above conduct would violate:

- (1) LE 1.05 Procedures: Joint Operations (b)
- (2) LE 1.01 Procedures (a) 1, 2
- (3) HR 3.02 Procedures (e) 2
- (4) HR 3.02 Procedures (h) 1 (c)
- (5) LE 1.02 Procedures (a) 1-4, (b) 1-3, (c) 1-2
- (6) LE 4.00 Procedures (b) 1-2, (d)
- (7) LE 1.06 Policy, Procedures (a) 1
- (8) HR 3.02 Procedures (f) 3

On Thursday, 06-25-09, Agent Christopher Aller began his assigned shift at 5:00PM. His partner, Agent-Trainee Jason Chapman, was off on this day. Aller said the on-duty agents were already assigned to work together, so he telephoned Fort Worth Police Sergeant Richard Morris to check if he had an officer working alone. Aller informed Sergeant Morris that TABC had a policy that agents could not inspect bars alone after 10:00PM, so riding with one of his officers could serve to help the lone officer and keep him (Aller) within agency policy. Aller said Morris agreed and said he would contact him later after checking his schedule. Aller recognized riding with another agency was a practice of the area, but this would be his first time as an agent to ride with an officer from another agency. Aller said he didn't contact his immediate supervisor, Sergeant Terry Parsons, about his intentions to ride with another agency.

At approximately 9:45PM, Aller said Officer Michael Marquez telephoned regarding his request to ride with an officer. Aller said he met Marquez at a Family Dollar store parking lot located at 800 W. Rosedale. Both officers then proceeded to the nearest police sub-station about three blocks away to park Aller's unit. After doing so, Aller entered Marquez's unit and they drove off at approximately 10:00PM.

Aller recalled it was a fairly slow night of police calls. He said Marquez later met with Officer JM Back and they discussed the opportunity to check some bars in their area since Aller was riding with them.

At approximately 11:00PM, Aller stated Marquez and Back stopped at the Rainbow Lounge (MB723592, Issue Date: 06-08-09), located at 651 S. Jennings, for a bar check. They parked their units in the south parking lot and contacted Sergeant Morris to see if he was available to assist with the inspection. Aller learned from Marquez that Fort Worth officers can only enter a bar to conduct an inspection with a supervisor on site.

Aller said he transferred to the Fort Worth office in October 2008 and really didn't know the area that well. He claimed this was his first visit to the bar and learned from the Fort Worth officers that the Rainbow Lounge was one of several gay bars in the area. He knew of no TABC complaints against the bar and realized it was new only after noticing the grand opening sign in front of the location.

Aller said the officers waited in their units for Sergeant Morris to reply back. It was then Aller said a male subject came out of the bar and approached their vehicles. He wanted to know if everything was okay because he was the owner of the bar. Aller said Officer Back spoke to him about being there to conduct an inspection because the bar was new, but they had to wait for their supervisor to arrive before they could enter the bar. Aller recalled the owner said "Okay, no problem," and walked back inside the bar.

Aller recalled exiting the unit and walking through the parking lot, eventually making his way to a fence in the back. Aller said he and Officer Back looked through the fence openings into a patio area and observed six or eight customers. He saw two males dressed only in thong-like underwear or bikini bottoms sitting on some picnic tables. As he continued to view the area, he noticed the male subject who had earlier identified himself as the owner entered the patio area and quickly made his way to one of the individuals in the underwear and whispered in his ear. Aller said the male subject got up and ran inside.

Aller believed the subject's actions were odd and could indicate the possibility of drug activity or lewd conduct. However, without further investigation, he realized it was impossible to determine if any violations were being committed. Further investigation was needed, but it meant entering the bar, which he couldn't do without the help of Fort Worth officers and they couldn't enter the bar without a supervisor on site. Aller said he never considered contacting on-duty agents to make the scene to enter the bar with him.

Aller said after the subject ran into the bar, he and the other officers made their way to their units. They had to leave because Sergeant Morris informed his officers that he wasn't going to be available. It was then that a civilian rider with Officer Back noticed a male subject walking out of the bar about to get into the driver's seat of a car. The rider asked Back if he wanted to check on the subject. Aller saw the subject get in the car, put his keys in (the ignition) and had the brake lights on when Back went up to the window and began to talk to the subject.

Officer Back believed the subject was "pretty drunk," so he got him out and explained that he couldn't drive and had to find another way home. Aller said Officer Back told the subject to go back into the bar to call someone to come and pick him up. The subject said okay and walked off. This is when Aller said officers got back in their units and left the Rainbow Lounge after being there for approximately 12 to 15 minutes.

For the next couple of hours, Aller said they answered a few routine calls. At approximately 1:00AM, Officer Marquez pulled into a vacant parking lot south of the Rainbow Lounge to visit with Officer Back. Aller recalled Marquez and Back mentioning how slow a night it was and how they were looking forward to going off-duty. This is when they noticed a car eastbound on Hattie Street that matched the description of the vehicle at the Rainbow Lounge they saw the intoxicated male try to enter hours earlier.

Aller said Marquez reacted by saying, "Holy cow, that's the same car." He and Officer Back pulled out of the parking lot onto eastbound Hattie Street to try to stop the vehicle. Both officers drove several blocks without spotting the vehicle when Officer Back is heard on the radio saying, "I think we lost him." It was then that Aller said he and Marquez observed the vehicle parked on May Street with its lights turned off.

Marquez pulled up behind the vehicle and turned the emergency lights on. They exited the unit and approached the vehicle to find the driver sitting in the driver's seat. Marquez identified the driver as Roger Goode (W/M, DOB: 04/19/1962). Goode was not wearing a shirt and had his pants undone. Aller also noticed Goode had socks on, but his cowboy boots, button-up shirt and underwear were in the backseat area.

Aller said Goode appeared to be very intoxicated. He also exhibited signs of being "groggy" and on the verge of passing out. Officer Back arrived, approached the vehicle and asked Goode to step out. Back arrested Goode for Public Intoxication and transported him to the jail. Aller said he and Marquez stayed with Goode's vehicle until it was picked up by the tow truck.

According to a Fort Worth Incident Report, at approximately 12:15AM on 06-26-09, Officer Back observed a parked vehicle at 700 May Street. Upon approach of the vehicle, he identified the driver as Roger Goode. He asked Goode to exit his vehicle

and when he did, Back smelled a very strong odor of an alcoholic beverage on his breath and person. Back noticed Goode was swaying and exhibited bloodshot and watery eyes. Back determined Goode was a danger to himself and others, so he was arrested for Public Intoxication and transported to jail.

Aller said he intended to initiate a TABC complaint card against the Rainbow Lounge for potential violations of sale to intoxicated persons and lewd conduct, but it slipped his mind.

After that, Aller said Marquez received a call from Sergeant Morris to make their way to a club on Victory Street that was known as a problem location.

Aller said they drove to the Victory Street Bar, but it was already closed. They drove off and then at approximately 2:32AM, they heard Sergeant Morris say he was at the Rosedale Saloon (150 Rosedale) and needed their help because he noticed excessive traffic in the parking lot. Aller said they arrived shortly thereafter and entered the bar behind Sergeant Morris. Inside, they observed approximately 12 patrons sitting at the bar, nine with a beer bottle in front of them. Of the nine, one (Manuel Garcia, D.O.B: 07/071987) was observed consuming a beer and was issued citation #821435 by Aller for Consuming Alcohol During Prohibited Hours. Aller then issued the permittee (Ricardo Soto, D.O.B:12/09/1960) a citation for Permit Consumption During Prohibited Hours. Fort Worth officers identified and arrested two patrons for Public Intoxication. Aller said he would later learn this was the second charge for this offense against Soto within 20 months.

After the citations were issued, the owner locked up and officers made their way to their units. As officers prepared to leave the bar at approximately 3:10AM, a male subject approached and requested an ambulance. Officer Marquez stayed with the individual and Aller rode with Sergeant Morris back to the sub-station to pick up his unit.

During the trip, Aller recalled a conversation with Sergeant Morris about assisting his officers with bar inspections. Sergeant Morris asked Aller if he was available for follow up at the bars on Rosedale. Sergeant Morris informed him they were having major problems with drunks and other illegal activity at those locations. Aller responded that he didn't know because he was pretty busy during the upcoming weekend, but he would call if available.

On Saturday, 06-27-09, Aller and his partner, Agent Chapman were scheduled to work the Red Bull X-Fighters Freestyle Motocross special event at the Fort Worth Stockyards. Aller said he began his shift at 5:00PM and proceeded to the office to join Chapman. Aller was dressed in his special event uniform - a gray polo shirt with a red and white TABC seal on the upper front portion and STATE POLICE in bold lettering on the back. He wore khaki pants with his police badge attached to the front of his duty belt. His uniform also included black boots. Aller stated this is the standard attire for agents during special events in the Fort Worth area. He said Agent Chapman had to borrow a shirt from another agent to be dressed alike because he was new to the area and didn't have one to wear.

According to the operational plan for the event, Sergeant Parsons was the Supervisor in Charge. The plan indicated a briefing was to take place at 5:00PM at the Fort Worth

District Office that Aller said did not occur. The work shift on the plan was 5:00PM to 12:00 Midnight and there was to be a post briefing at 12:00 Midnight at the Fort Worth District Office that also did not occur. The plan objective was to identify minors in possession of alcoholic beverages, furnishing alcoholic beverages to minors, public intoxication, and disorderly conduct issues.

After joining Agent Chapman and the other agents (Charles Applewhite and Shawn Miller) assigned to work the special event at the office, they proceeded to a Mexican restaurant to eat supper. Aller was in the lead (driver) and Chapman was referred (partner). Sergeant Parsons also showed up at the restaurant approximately 15 minutes later. During supper, Aller said nothing was discussed about assisting Fort Worth officers with bar inspections after the special event. After supper, the agents made their way to the Stockyards. Aller couldn't recall where Sergeant Parsons went after leaving the restaurant.

Aller said he arrived at the Stockyards at approximately 6:30PM and drove through the parking lot looking for violations. After doing that for awhile, they parked their unit and went inside to conduct foot patrol for the remainder of their shift. They made contact with some individuals regarding marketing practices, but it wasn't enough to file a case. Aller recalled it was a very hot night and the crowd was large (he believed approximately 45,000 in attendance), but there were no incidents to report. Aller said they assisted with a medical situation and then assisted in crowd control during an escort of the Dallas Cowboy cheerleaders.

At approximately 11:00PM, Aller said he telephoned the other agents working the event and learned they had just left the event. Aller decided to do the same, leaving approximately 15 minutes before the event was scheduled to be over. He did so to beat the traffic leaving the area. He recognized the operational plan had them scheduled until 12 Midnight, but he claimed it is standard practice in the Fort Worth area to leave an event early if the crowd is small or nothing was going on. He claimed they can also leave just before the event is over to beat the crowd out of the area. He said the decision is made by the agents on the scene.

In this case, Aller could only remember Sergeant Parsons reminding them to complete their report at the end of the shift. He said nothing was said about leaving the event only with his approval or what to do after the event.

Aller said they left the event and made their way to a QT gas station nearby at 28th and Beach to meet up with Agents Miller and Applewhite. After a cup of coffee, Aller said he remembered his conversation with Sergeant Morris on Thursday about contacting him if he had time to do some follow up inspections at the bars on Rosedale. Aller said he telephoned Sergeant Morris to let him know he was available if he still wanted to check the bars. Aller recalled Sergeant Morris agreed and set a meet time of midnight at the Family Dollar store parking lot at 800 Rosedale.

Regarding how he was dressed, Aller said, "As I had expected the special event to continue past 1am, I had not considered dressing in any other work approved outfit for the shift. Feeling that public safety and assisting another agency seemed more important to me than worrying that I could be out of policy for wearing a special event at

a non-special event location and this a licensed premise, I continued working in my special event uniform.”

He added, “I do not know of any written policy that prohibits the wearing of such special event shirts in licensed locations, and I have wore such shirts in licensed locations with supervisor approval in the past.” However, Aller also recognized it is not normal practice in the Fort Worth area to conduct routine bar inspections in a special event uniform. He recalled making no effort to contact Sergeant Parsons for approval because he said, “I wasn’t considering---I was just happy to be able to have time. I didn’t expect to have time to help Sergeant Morris. We’re trying to develop a good relationship with the PD and so I didn’t---I didn’t take the time in between leaving. I was just happy to have time to be able to assist him.”

He ended with, “...I would have been better off calling a supervisor and asking for permission to go do bar checks in our special event uniforms, but I didn’t.”

Aller said he left the QT parking lot at 11:30PM and drove by the VIP Room on Victory Street to see if it was open, but it wasn’t. Aller said he and Chapman looked in the trash cans on the lot to see if there were signs of alcohol and found some empty liquor bottles with no tax stamps, but that was all. He then set up on a drive-through beer store for a short period before making his way to the meet location.

At approximately 12:00 Midnight, Aller said he arrived at the meet location and noticed Sergeant Morris in his patrol unit. Aller said he pulled up next to Sergeant Morris’ unit and Morris told him that he called other officers and a transport van to meet him at the same location. Aller said 15 minutes went by before the officers (approximately 3 units) and the van arrived. It was then that Aller said the operation to assist Fort Worth PD with bar inspections began. In Aller’s mind, he and Chapman were assisting Fort Worth officers, but it was not a TABC-led operation.

There was no evidence that Agent Aller notified Sergeant Parsons of his involvement in the bar check operation at this time.

Sergeant Morris began the operation by instructing officers to make their way to 150 and 160 Rosedale to check the bars at that location (Rosedale Saloon: MB 535382 and Cowboy Palace: MB 572887). The caravan of patrol units made its way approximately six blocks to the first inspection location and arrived at approximately 12:30AM. Aller recalled a DWI Enforcement officer also arrived at the location, making it five or six total Fort Worth officers on the scene. Aller said they visited Cowboy Palace first at 160 Rosedale and noticed that security personnel had a male subject sitting on the ground with a crowd of people around him that claimed he was hit in the face. Aller also noticed officers making contact with patrons at the door that were intoxicated and arrested. Aller said he and Chapman stood near the area monitoring the crowd when they noticed security guards brought a male subject out of the bar that apparently was involved in the fight with the subject sitting on the ground.

As he went by, the second subject suddenly attacked the male on the ground and officers quickly grabbed him and placed him on the ground to secure him. Aller saw the subject resisting Officer Back’s attempts to place flex cuffs on him, so he took out his standard issued steel handcuffs, bent down, and handcuffed the individual. The subject

was then lifted to his feet, flex cuffs were placed on his hands, and Aller's handcuffs were returned to him. The subject was escorted outside and placed in the transport van.

Aller said there were approximately six subjects arrested at that location for Public Intoxication, most of them in the parking lot and a few that came out of the bar. After completing their inspection of Cowboy Palace, Aller recalled Sergeant Morris instructed the officers to walk through the parking lot to the Rosedale Saloon at 150 Rosedale. Aller said Fort Worth officers entered the bar first, followed by him and Chapman. Aller said because of the high drug use in the area, he checked the men's bathroom first, but there was no one inside. He walked back into the bar area and stood by monitoring the crowd.

As he stood by the door, Aller recalled an individual walked past him on his way out that appeared to be intoxicated. Officers approached the individual and arrested him for Public Intoxication. There were approximately three persons arrested from this bar without incident or injury for Public Intoxication.

Sergeant Morris then announced that officers should report back to the meet location on Rosedale to get their paperwork in order regarding the arrestees. At the parking lot, Aller stood by as Fort Worth officers identified and processed each of arrested individuals.

Aller was asked to describe how he routinely conducts inspections and he responded, (1) one agent makes contact with the owner, (2) the other agent watches his partner and the crowd, (3) one agent is conducting the compliance portion of the inspection and the other is looking for crowd violations, and (4) if nothing, they leave.

When asked what type of agency-recognized inspection he was conducting at the two bars on Rosedale, Aller called it a "hybrid." He was there to assist Fort Worth officers identify obvious violations involving minors and intoxicated individuals, and to file the administrative cases. In comparing it against the Enforcement Manual, Aller called what he was doing an "open violation check." He recognized that he conducts inspections differently than Fort Worth officers, but he felt he was taking a back seat to the normal way of doing things because this was a Fort Worth operation.

In reviewing Aller's actions at both bars and the six-step process during inspections found in the Enforcement Manual, there was no indication Aller (1) identified himself to a bar representative, (2) explained the inspection, (3) asked to see a permit or license, or (4) spoke to a bar representative regarding any concern they had about the inspection.

As the identification process continued, Aller recalled Agent Chapman and Sergeant Morris made contact with a male subject on the street that was arrested for Public Intoxication. He was then escorted to the van and processed with the other arrested individuals.

With the booking process now completed at approximately 1:15AM, Sergeant Morris said, "Hey, let's go to the Rainbow Lounge." Morris asked Aller if he and Chapman could assist his officers and Aller agreed. Aller said no one made any comments about it being targeted because it was a gay bar or any other type of inappropriate reference

about its clientele. Aller believed the bar was going to be checked because it had never been inspected by Fort Worth officers and because Officer Marquez made a comment about the drunken patron that was arrested on the previous Thursday.

Aller recognized the Rainbow Lounge was a new location (06-08-09) that had no complaints on file with TABC. He also recognized the agency has a goal of offering educational programs when dealing with some violations found during the first inspection. However, in this case, it didn't cause him any concern that he was participating in an inspection of a new bar with such a large show of force---utilizing a transport van and several officers to enter and search for intoxicated patrons. He said it didn't cause him any concern because it was a Fort Worth operation and he was only assisting.

The officers left the meet location and proceeded to the Rainbow Lounge to conduct an inspection. Aller recalled it was just a block or two away from where they were staged and upon his arrival; he parked on the street and in front of the bar. As he came to a stop, he noticed an individual outside that appeared to be a bouncer began to make his way quickly to the front door in what appeared to be an attempt to alert the patrons of arriving officers.

Aller recalled Agent Chapman exited their unit and stopped the individual before he could enter the bar. At approximately 1:25AM, officers entered the bar through the front door and fanned out in different directions. Aller said he noticed it was a large crowd (estimated at approximately 150 customers) as he made his way through the bar. Aller did not hear any inappropriate comments by officers as they entered the bar. He also could not recall any negative comments by patrons towards officers.

Based on his observations at the bar on Thursday night, Aller made his way to the back patio area. As he walked through the crowd, Aller noticed a Fort Worth officer near the VIP area speaking to a customer about how much he had to drink. Aller noticed Officer Back behind him also making his way to the patio area. Now on the patio, Aller approached an individual that was seated that appeared to be intoxicated. Aller said he identified himself to the individual with name and agency and then requested the subject step outside with him. Aller said he asked the subject to step outside because it was loud and dark on the patio and outside is a safer location to investigate for intoxication. As he started to walk back inside the bar, Aller noticed Officer Back was speaking to a very tall individual, whom he also asked to step outside.

Aller said a crowd of people at the patio asked what was going on and he explained he was going to check the individual's intoxication level. To that they replied, "Man, that's bullshit."

Walking behind the subject, Aller recognized his balance appeared to be fine. Once outside, Aller also noticed the subject's balance was good and his speech was fine. He exhibited bloodshot eyes, but the subject said he had been in the sun all day. There was an odor of an alcoholic beverage, but he admitted drinking two beers. After asking a few more questions, Aller determined the subject was not intoxicated, so he was allowed to return into the bar. Aller then noticed Fort Worth officers had two or three intoxicated customers outside that were under arrest.

Aller decided to remain outside in front of the bar to speak to Sergeant Morris. Morris informed him that he spoke to the bar owner on Friday and during their conversation, the owner informed him that he has his staff escort intoxicated customers to their cars to ensure they get out safely. Morris said that comment, along with the intoxicated patron arrested on Thursday night, was the cause for the inspection that night.

Aller said an officer then ran up and announced that someone came over the radio requesting help inside. Sergeant Morris, Agent Chapman, and Aller ran into the bar searching for the officer. Aller quickly made his way to the patio, but noticed everything was okay. He re-entered the bar and noticed the crowd was looking toward the bathroom hallway area.

Aller approached the area and noticed there were several officers on scene attempting to arrest a male subject, later identified as George Armstrong. Aller said the subject was on the ground in a prone position with his head facing the back wall. There were three Fort Worth officers making the arrest with Agent Chapman on his knees holding down what appeared to be the subject's ankles or calves.

Aller noticed the subject was resisting the officers' attempts to place handcuffs on him by actively pulling his hands away from officers. Aller made his way along the wall into the hallway and provided light at the subject's hands so officers could see what they were doing. Aller then turned his attention toward two customers in the VIP area, next to the hallway, that were commenting about "homophobia" and how unfair the arrest was. The subject was eventually handcuffed and lifted to his feet.

The subject appeared to be a white or Hispanic male. Aller did not see any sign of injury on the subject or any sign of injury, like blood, on the floor. Officer Back then escorted the subject outside.

Aller said he made his way to the end of the hallway and stopped to let customers go down the hallway to the restrooms. He stopped with his back to the VIP area and across from the ladies restroom. At this time, Aller saw two male subjects approaching his position headed to the men's restroom, one leading the other. They were walking single file, with the left hand of the subject in back resting on the right shoulder of the subject in front. As they went passed him, Aller saw the subject in back use his right hand to reach to the left and across his body to slap a male customer's genital area with the back of his hand. This same subject then immediately turned toward Aller and used the back of his right hand to slap Aller's genital area.

Aller reacted by saying, "Hey, State Police" as he grabbed the subject's right hand to stop him. Aller said he led the subject up against the wall between the men's and ladies bathroom to control and arrest the subject. Aller immediately recognized that the subject was resisting his efforts to handcuff him by pulling his hands apart and away from the handcuffs. It was then that Agent Chapman and Officer JK Jenson arrived to assist. With the subject continuing to resist, Officer Jensen applied a pressure point technique up against the nose of the subject, but it was unsuccessful.

Efforts to control the subject enough to place handcuffs on him while standing proved to be unsuccessful, so he was taken to the ground. He was eventually handcuffed, lifted

to his feet and escorted outside under his own power to the transport van under arrest for Public Intoxication and Assault.

Aller did not observe any sign of injury on the subject and there was no sign of injury like blood on the floor where the arrest took place. In addition, the subject was not complaining of injury.

On the way out, Aller recalled a female patron cussing at them and calling the officers "bigots." Aller believed a Fort Worth officer stopped to speak to her about the comments.

In observing the subject outside, Aller confirmed he was intoxicated. The subject's eyes were bloodshot, he was swaying back and forth, and there was an odor of an alcoholic beverage on him. Aller said he replaced the steel handcuffs on the subjects hands with a pair of flex cuffs and turned him over to a Fort Worth officer to be processed. It was his understanding that the subject was now in the custody of Fort Worth officers because his charge was criminal and Fort Worth usually handles the criminal matters and TABC handles the administrative matters during joint bar inspections. Aller believed it was also better to detach himself as the arresting officer since he (Aller) was the victim in the assault case. It was his understanding Fort Worth would be the processing agency and he would be a witness in the matter.

Aller said Sergeant Morris instructed him to get his information to the processing officer. Aller gave the officer a business card and gave him the charges of Public Intoxication and Assault-by contact.

Aller then received a call from Agent Miller about a request for assistance at a bar by a Fort Worth officer in another district. Aller made his way to his patrol unit so he could hear better and be able to take down Miller's information. He then approached Officer Marquez, who was seated in his patrol unit for help in identifying the requesting officer and location. Aller said the requesting officer contacted him and Aller then contacted Agent Miller with the information. Aller recalled Sergeant Parsons then telephoned about another request for TABC assistance. Aller informed him that he hadn't heard the call, but he had been in contact with Miller and they were on their way to assist officers at a house party.

Aller then informed Sergeant Parsons that he and Chapman were assisting Fort Worth officers and they had 15 persons under arrest for public intoxication from three locations. Aller said he did inform Sergeant Parsons they were assisting with bar inspections, but nothing was said about how they were dressed. After the end of his call from Sergeant Parsons, Aller decided to monitor the front door area to ensure officers exited the bar safely.

A short time later, Aller recalled Sergeant Morris approached to say the subject he arrested that Chapman was watching collapsed onto the parking lot and was violently vomiting. Sergeant Morris also informed him an ambulance had been dispatched to the scene. Aller made his way to Chapman and noticed the subject was laying on his right side on the ground near a large pool of vomit. Aller went to his unit to retrieve a pair of cutters and cut the flex cuffs on the subject off because he wanted the subject to be more comfortable and the resistance had stopped. It was obvious to Aller that the

subject was in some sort of distress because he continued to vomit and just appeared to be violently ill. Aller also noticed small drops of blood on the ground near the subject.

Aller also noticed some sort of contusions and road rash-like injury above and below the subject's right eye.

After cutting off the flex cuffs, the subject got himself up into a sitting position. Officer CM Duer filled out the information for the charges and identified the subject as Chad Gibson (W/M, DOB: 12/06/1982). Sergeant Morris reminded Aller to give the processing officer a business card and then instructed one of his officers to take photographs of the subject. Morris then suggested officers should attempt to find a friend in the bar to go with Gibson to the hospital. Aller approached the bouncer outside to check inside for a friend. The bouncer checked and informed Aller that the friend was gone.

The ambulance arrived and Aller saw Gibson stand up on his own and assisted onto a wheeled stretcher. Gibson was then loaded into the ambulance and transported to John Peter Smith Hospital.

Aller said it never crossed his mind to contact Sergeant Parsons for guidance and instruction on how to proceed regarding the arrest and injury to Gibson.

With the bar now closed because it was after 2:00AM, Aller observed Officer Back speaking to the owner of the bar. Officer Back then signaled for Aller to come to his location to speak to the owner. Aller recognized the individual as the same one they spoke to at the bar on Thursday night. Aller said he spoke to this individual and he wanted to know how to deal with intoxicated subjects that refused to leave. He said the individual arrested by Fort Worth officers (Armstrong) in front of the men's restroom had been thrown out three times that evening by bar employees, but found a way to re-enter the bar each time.

Aller discussed the entrances and exits of the location with the owner and spoke to him about some options to better control his business. Aller said the owner then requested he go back inside the bar to speak to his employees and scare them about selling to drunks. Aller refused, but he did inform the owner of training programs TABC offers to retailers such as SAVE and MAPS and gave him a business card with Agent Staci Ducote's name on it (she is involved with education). Aller said the owner appeared sincere about wanting training and learning how to operate his business without violating the law.

Aller said the owner didn't appear to be angry and never questioned how the bar inspection was conducted.

Aller said he was conducting an "open violation" style inspection at the Rainbow Lounge as he assisted Fort Worth officers, but acknowledged he did not make contact with a bar representative until the operation was over. He also did not check for a permit and did not explain the action to be taken during or after the inspection.

Aller said he and Chapman left the bar and returned to the Fort Worth office to complete some paperwork. In his weekly, Aller said he wrote that he assisted Fort Worth officers

at three locations and the police department had arrested 15 individuals for Public Intoxication. Aller also noted the owner of the Rainbow Lounge may call to complain, but more likely for training opportunities.

Sometime on Sunday (06-28-09), Aller received a call from Agent Applewhite about the Rainbow Lounge arrests being on the news. Aller said Sergeant Parsons then contacted him to find out what happened the previous night. Aller recalled Parsons asked if he informed him of the bar inspections with Fort Worth officers. Aller answered he did not. Aller told Parsons, "I didn't know about it. I mean I didn't plan it."

Parsons then asked him if he was wearing a special event uniform and Aller answered yes. Aller told Parsons, "I said that at the time I didn't necessarily consider it, but I, I said what did you want me to do, Terry, go back to the office and sit on my butt I guess, you know. I felt that my explanation was that, and still is, I feel that public safety aspect of doing what we did and assisting another agency cooperatively, outweighs the vague policy about wearing a special event in a licensed location."

Aller recalled Parsons already knew of the injury to Gibson, but he didn't say anything about submitting a force report. He only instructed Aller to be at the office on Monday morning.

Aller said he didn't notify his supervisor or submit a force report because he believed Gibson's arrest belonged to the Fort Worth Police Department and they were going to turn in a force report to their agency. He didn't believe a notification or report was required if assisting another agency in making an arrest of a resistant individual.

Aller acknowledged he has since learned that TABC policy required he notify his supervisor and submit a force report because (1) he used force to arrest Chad Gibson, and (2) Gibson was under arrest by TABC and sustained an injury.

Aller said, "I violated some policy issues. I did not violate anybody's Constitutional rights. Nobody was abused, violated; we weren't there because of their sexual orientation. I'm very apathetic. I could care less." The inspection of the Rainbow Lounge, he said, "had nothing to do with it being a gay bar."

Aller said, "...I hope I'm not the scapegoat for some things. Like I said I'll take----I'll take responsibility for the things I did wrong..."

In his rebuttal of the charges on the OPR-1 dated 07-28-09, Aller requested each allegation be declared "unfounded."

Classification

Sustained

Evaluation

There was evidence to support a sustained classification on all counts.

Allegation #1

The evidence revealed on 06-28-09, Agent Aller assisted the Fort Worth Police Department in a pre-arranged bar inspection operation with Agent Chapman without approval. On this night, there were only four agents working the Fort Worth area, so the assistance provided by Aller and Chapman constituted 50% of the available resources. Therefore, the joint operation required supervisory approval.

Sergeant Parsons stated he did not receive notification from Agents Aller or Chapman about assisting Fort Worth officers with a bar check operation.

Allegation #2

Aller acknowledged he failed to submit a complaint card against the Rainbow Lounge.

Allegation #3

Aller acknowledged he left the special event at 11:00PM, which was twenty minutes before it was scheduled to be over and one hour before his assigned shift was scheduled to be over without approval. He claimed it is common practice in the Fort Worth area to leave events, without approval, before they are over to beat the traffic out. Agents Applewhite and Miller also left the event at 11PM because they said the event was over at 11:20PM.

Agent Chapman said he remembered other senior agents he has worked with notified a supervisor before they left a special event.

According to Sergeant Parsons, he requires his agents to follow the instructions on operational plans. In this case, Aller was required to follow the instructions on the operational plan, which meant he was to remain at the event until Midnight, unless he had approval to leave early. Parsons later contradicted himself when he said it was permissible for Aller to leave this event at 11:00PM to beat the traffic out because it was scheduled to be over at 11:20PM.

Regardless of Parsons' conflicting positions, policy requires employees to follow instructions. In this case, there was evidence that Aller failed to abide by this policy.

Allegation #4

There was evidence Aller participated in a pre-arranged bar inspection operation in his special event uniform without approval. Aller said, "...I would have been better off calling a supervisor and asking for permission to go do bar checks in our special event uniforms, but I didn't."

Allegation #5

There was evidence Aller failed to follow bar inspection procedures.

Allegation #6

There was evidence Aller failed to submit a force report detailing the circumstances of the arrest of Chad Gibson.

Allegation #7

There was evidence Aller failed to report Chad Gibson's injury.

Allegation #8

On the night of the incident, there was evidence that a significant disruption occurred during the inspection at the Rainbow Lounge. In this case, the facts are (1) the inspection involved multiple officers and a transport van, (2) officers detained several patrons for investigation of intoxication and made multiple arrests, and (3) police used force to arrest George Armstrong and Chad Gibson.

Agent-Trainee Jason Chapman

It is alleged Agent-Trainee Jason Chapman:

- (1) Participated in a joint operation (bar inspections) with the Fort Worth Police Department on 06-28-09 without approval
- (2) Failed to follow instructions on the Operational Plan of the Red Bull X-Fighters Freestyle Motocross special event on 06-27-09 (left prior to end of shift without approval)
- (3) Conducted bar inspections at the Rosedale Saloon, Cowboy Palace, and the Rainbow Lounge on 06-28-09 in unapproved attire (special event uniform)
- (4) Failed to follow bar inspection procedures on 06-28-09 at locations listed under allegation #3
- (5) Failed to report use of force incidents involving arrests of George Armstrong and Chad Gibson during bar inspection at Rainbow Lounge on 06-28-09
- (6) Failed to report injury of person (Chad Gibson) in custody during bar inspection at Rainbow Lounge on 06-28-09
- (7) Disruption of business during bar inspection at Rainbow Lounge on 06-28-09

If true, the above conduct would violate:

- (1) LE 1.05 Procedures: Joint Operations (b)
- (2) HR 3.02 Procedures (e) 2
- (3) HR 3.02 Procedures (h) 1 (c)
- (4) LE 1.02 Procedures (a) 1-4, (b) 1-3, (c) 1-2
- (5) LE 4.00 Procedures (b) 1-2, (d)
- (6) LE 1.06 Policy, Procedures (a) 1
- (7) HR 3.02 Procedures (f) 3

Agent-Trainee Jason Chapman stated on Saturday, 06-27-09, he began his work day at 5:00PM. His partner on shift would be Agent Chris Aller, who is also his Field Training

Officer (FTO). Chapman indicated they were assigned to work a special event at the Fort Worth Stockyards called Red Bull X-Fighters Freestyle Motocross. The event was scheduled to end at 11:20PM, but their assigned shift on the operational plan was 5:00PM to 12 Midnight.

Because of the special event, Chapman was dressed in a special event uniform – a gray polo shirt with a state seal on the front and State Police on the back and khaki pants. Chapman said Aller was also dressed in a special event uniform.

After going on-duty, he proceeded to the Fort Worth office to meet Aller. After spending some time at the office, they went to supper and afterwards, proceeded to the Stockyards. Chapman stated they left their assignment at approximately 11:00PM. He didn't contact Sergeant Parsons to let him know he was leaving and didn't believe Aller contacted Parsons. Chapman said he has worked special events before with other senior agents, who he believed contacted someone in authority before leaving the event.

After they left the special event, Chapman said they rode around for awhile and then stopped at a convenience store to get something to drink. After leaving the store, they checked some licensed premises and then proceeded to a shopping center parking lot on Rosedale Street to meet with Fort Worth officers. Chapman recalled arriving at the location at approximately 12 Midnight.

Chapman said a Fort Worth supervisor (Sergeant Morris) approached their unit and said he wanted to check certain bars first and then they could decide where else to go. Chapman recalled a total of six Fort Worth units and a transport van arrived while speaking to Sergeant Morris.

After all the officers had arrived, Chapman said they left and proceeded to a location on Rosedale Street (150 and 160) that had two Hispanic bars located near each other that shared the same parking lot, arriving at approximately 12:30AM.

Chapman said Aller parked his unit between both locations and they exited to begin the inspection. As officers made their way to the first bar, Chapman noticed an altercation between two male subjects taking place. It appeared to Chapman that the incident had ended, but was about to start up again when officers intervened.

Chapman said both individuals were approached by Fort Worth officers and arrested for Public Intoxication. Chapman said he then entered the bar single file behind other officers to check inside. Officers fanned out and began looking for obvious administrative or criminal violations by patrons. Chapman recalled spotting two customers that appeared to be intoxicated and pointing them out to Fort Worth officers.

Chapman said he alerted Fort Worth officers to the intoxicated patrons instead of checking with them himself because it was his understanding that TABC would handle the administrative charges and Fort Worth would handle the criminal cases.

Chapman said these individuals were arrested for Public Intoxication and escorted outside without incident. After making his way outside, Chapman noticed there were a few other patrons outside that also appeared to be under arrest.

Chapman said they cleared the first location and walked over to the second location. Chapman said he entered the bar with some Fort Worth officers and monitored the crowd for violations. Chapman said everything was okay inside so officers made their way outside to the parking lot. This is when he assisted an officer place handcuffs on an intoxicated individual found laying on the bed of a truck.

After clearing both locations, Chapman recalled officers made their way back to the meet location at 800 Rosedale Street at approximately 1:00AM. This is when officers began the process of identifying each arrested person and securing their property.

As Chapman was monitoring the activities, he and Sergeant Morris were alerted to a suspicious person walking through the parking lot. They made their way toward the individual, but lost him due to darkness. They, however, approached another individual in the same area that was very intoxicated. He was arrested and escorted to the transport van for processing.

Chapman recalled after the booking procedures were completed, Sergeant Morris announced they were going to the Rainbow Lounge for an inspection. Before that, Chapman remembered hearing some officers talk about the bar having problems with intoxication because of over-serving. However, he said nothing was said about targeting the location because it was considered a gay bar.

Chapman said Aller pulled up to the front of the bar at approximately 1:30AM. Chapman immediately noticed a male subject standing in front of the bar that appeared to be a door greeter or bouncer. When this person noticed officers, Chapman saw him attempt to quickly enter the bar, as if to alert those inside of the presence of police. Chapman quickly made his way to the individual and stopped him before he could enter the bar. Chapman informed the individual to step aside and stand up against the wall. Chapman then told him he didn't need to go inside to alert customers that officers were there.

Chapman said he believed he may have been first to enter the bar, followed by other officers. Chapman said he had never been in this bar so he took his time to slowly make his way through the crowd, when all of a sudden he noticed a group of officers hurriedly going past him. Chapman joined the group of officers.

Chapman said he followed Agent Aller and a Fort Worth officer to the back patio area. When they entered the patio, Chapman said the crowd became suspiciously quiet, which prompted a Fort Worth officer to ask why they got so quiet. Chapman recalled a patron responded, "Cause we are all twenty one." The officer then asked who made the comment and a male subject replied he did, which led the officer to order him outside. Chapman said he saw the male follow the officer outside the patio area without incident.

While standing in the patio area, Chapman said he was startled by a male subject that approached him from behind. Chapman said he turned quickly and placed his right hand on the subject and said, "Hey man." The subject responded that he worked at the bar as a security guard. As he finished his conversation with the subject, Chapman noticed Agent Aller speaking to a customer who was not wearing a shirt and was seated at one of the picnic tables. He then saw Aller motion for the customer to come with him.

After Aller left with the subject, Chapman made his way back into the main area of the bar and continued to monitor the crowd. He made his way to the VIP area and was looking around when he noticed a male subject walking by with his eyes partially closed that was bumping into customers. Chapman then noticed the subject raised a can of beer and drank half of it in one swallow. Chapman pointed the subject out to a Fort Worth officer, who approached him. Chapman also approached and detected a strong odor of an alcoholic beverage on his breath. The subject's eyes were bloodshot and his speech was slurred, which led to his arrest for Public Intoxication.

Just then a male subject approached that was angry about his friend's arrest. Chapman explained why he was under arrest and tried to calm him down. A female then came up to get the subject away from Chapman.

Chapman walked around the bar monitoring the crowd, when two females approached and asked what was going on. One of the females accused the officers of being in the bar because they are "homophobic." The females again asked why officers were in the bar and Chapman explained they were there for an inspection that could consist of, but not limited to; report of violations, routine inspections, and complaints. The females then asked what the complaints were and who made them. This led Chapman to answer that he didn't know of a specific complaint.

Chapman informed the ladies that officers were there to ensure public safety matters were adhered to and drunk patrons were not being allowed to drive away from the location. Chapman recalled the conversation with them was very informative and productive in explaining the purpose and goals of TABC and officers in general when conducting inspections.

After speaking to another male subject, Chapman said he noticed officers were having difficulty restraining a subject in the VIP area. Chapman said he walked up and executed, as did a Fort Worth officer, a joint (wrist and elbow) lock maneuver on the subject. The subject (Jose Maczas) was arrested and escorted outside, where he was secured with plastic hand restraints and placed in a seated position on the side walk.

While outside, Chapman heard an officer yell that an officer needed help inside. Chapman immediately re-entered the bar and made his way to the restroom area hallway where he saw two Fort Worth officers on the floor attempting to restrain a resisting male subject, who was on the floor in a prone position facing the back wall. When he reached the scene, he heard officers ordering the subject to stop resisting. Chapman said he reached down to grab the bottom of the subject's pants and pulled to get him flattened out, causing his center of gravity to move forward. Officers were able to then place hand restraints on the subject. The subject complied with orders to stop resisting and was lifted to his feet and escorted outside.

Chapman didn't see any signs of injury on the subject and there were no signs of injury, like blood, on the floor. Chapman would later learn from a bar employee that this subject, identified as George Armstrong (W/M, DOB: 11/30/1967) had been kicked out of the bar three times that night, but found a way to get back inside each time.

As Armstrong was being escorted outside, Chapman said he looked back toward the hallway and noticed Agent Aller struggling with a male subject near the bathroom area. Aller had him by the right arm and was trying to control him. Chapman moved in to help by grabbing his left hand. To try to get the subject under control, Chapman said, "I did attempt to give him a little shot in the abdomen to get him under control a little better but I missed." Chapman said he then used a wrist lock and elbow control technique to try to control the subject, but it did nothing to stop the resisting.

Chapman recalled the subject was pulling his hands apart to keep officers from handcuffing him. Chapman said a Fort Worth officer (Jensen) came up to help and they were able to move the subject up against the wall to get him pinned and off balance.

Chapman said he kicked the subject's left leg out to keep him off balance, but it had no effect on the subject's resistance. Chapman said the Fort Worth officer reached around to the front of the subject's face and tried a pressure point technique for control, but it also proved to be unsuccessful. At this point, Chapman heard someone say to take the subject to the ground, which he said is a technique used to gain control by taking the resistant person off his feet.

Chapman said all of a sudden everyone started to go to move to the right and down to the ground. Chapman said he landed on the lower half of the subject's legs and was in a very vulnerable position with his back exposed to the people behind him. Chapman pushed off the subject's legs and buttocks to get himself up. Once he regained his stability, he secured the hands of the subject in standard handcuffs with the help of other officers that had arrived to assist arrest the subject. The subject stopped resisting and was secured without further incident.

The subject was lifted to his feet and escorted outside the bar. Chapman said there were no signs of injury on the subject and there was no sign of blood or any other substance on the floor where the subject was handled. Chapman said the subject did not complaint of injury.

Once outside, the subject was walked to the transport van to be identified and to begin the processing procedures. Chapman said he and Aller removed Chapman's standard issued handcuffs and replaced them with the plastic cuffs. The subject was then identified as Chad Gibson.

Gibson exhibited signs of intoxication: strong odor of an alcoholic beverage on his breath, his speech was extremely slurred, his eyes were glassy and partially closed.

Chapman said Gibson was turned over to Fort Worth officers on a charge of Public Intoxication. Chapman later learned a charge of assault would also be added to the final charges. Chapman was taking down other relevant information when Gibson, who was leaning up against the back of the van, stepped away and said he was going to be sick. Chapman saw him bend down and then he began to vomit. Chapman said he stepped back to keep from having vomit land on him when he saw Gibson raise up and turn to his right as if trying to collect himself. This is when Chapman said he saw Gibson suddenly fall face first onto the pavement.

Chapman reached out to grab him, but he couldn't reach him in time. Chapman saw the right side of Gibson's face and head strike the ground. Chapman then called out for help and EMS was requested. After that, Chapman closely monitored Gibson to make sure he was alright and could safely breathe. He informed Gibson to take deep breaths and stay calm because EMS was on the way.

Chapman noticed a road rash-like injury on Gibson's right cheek and a "goose egg" and scrape above his right eye.

While on the ground, Gibson began vomiting again. Aller then cut off the flex cuffs so Gibson could sit up. He vomited approximately 4-5 times. In between episodes, Chapman asked Gibson how much he had to drink and Gibson responded, "a lot." The rest of his contact with Gibson was pleasant and he was eventually transported to the hospital.

After the bar closed, Chapman saw Agent Aller hand the owner/manager a business card. Chapman then went to his unit to wait for Aller to return so they could go home. Aller returned and agents cleared the scene.

In summary, Chapman acknowledged he did not seek approval from Sergeant Parsons to work the bar inspection operation with Fort Worth officers. He also said he didn't inform Parsons that he would be inspecting bars in his special event uniform.

In addition, Chapman said he (1) didn't identify himself to a bar representative during the inspections he called open violation checks, (2) didn't explain the inspection to a bar representative, and (3) didn't locate the permit or license.

Chapman stated he used force at the Rainbow Lounge to assist in the arrests of George Armstrong and Chad Gibson, but did not submit a force report. He didn't think a report was required if the subject was turned over to the police department and Aller never said anything to him about submitting a report.

He also didn't notify Sergeant Parsons of multiple arrests at one location or the injury to Chad Gibson after his arrest.

Chapman said the inspection at the Rainbow Lounge could have been a disruption to the business.

During his interview, Chapman, who had been with the agency almost three months on 06-28-09, said he "received a very good policy lesson" by Lieutenant Gene Anderson following the incident.

Chapman concluded, "Chris and I, we conducted ourselves in a professional manner. We had some hiccups on policy. There's no two ways about that and that's my responsibility..."

In his rebuttal of the charges listed on the OPR-1, Agent Chapman said he didn't believe two agents constituted significant resources; therefore, he didn't find the first allegation was correct. As to the second allegation, Chapman said the decision to leave the special event was made because the event had reached its conclusion, the crowd

was beginning to disperse, and their efforts to that point had not yielded any Alcoholic Beverage Code violations.

Chapman indicated policy (HR 3.02 (e) 2) states employees are expected to reasonably follow job-related instructions issued by a supervisor. On that night, Chapman made what he called a “reasonable” determination that his presence was no longer necessary at the event and left.

As to allegation number three, Chapman stated the referenced policy (HR 3.02 Work and Personal Conduct) did not expressly prohibit wearing an authorized special event uniform while conducting bar inspections. He added that this policy made mention of a neat, professional appearance and dress appropriately for their position. Chapman believed it would not have exhibited common sense or good judgment to go home to change into a coat and tie.

Chapman said the fourth, fifth, and sixth allegations against him are true. He disagreed with the seventh allegation and said he did not believe his presence caused a disruption to the Rainbow Lounge business.

As to the charge of excessive force, Chapman responded that he did not use excessive force to assist in the arrest of Chad Gibson. He claimed that he assisted in the detention, the arrest and the escort of Gibson to the transport van. Once outside near the van, he and Aller took his (Chapman’s) steel handcuffs off and replaced them with the plastic cuffs. At some point, Chapman said he found himself alone with Gibson standing near the van. Chapman began to gather information when Gibson began to vomit.

When this started, Chapman said he stepped back to prevent the vomit from landing on him. Chapman recalled Gibson rose up from vomiting, turned to his right, while Chapman looked down at the vomit. It was then that Chapman looked up to see Gibson already beginning to fall. Chapman reached out to grab Gibson, but he wasn’t able to catch, prevent, or stop Gibson from falling to the ground and striking his head on the pavement.

Classification

Sustained

Evaluation

There was evidence to support a sustained classification on all counts

Allegation #1

The evidence revealed there were four agents assigned to work the Fort Worth area on the night of the incident. Fort Worth Agent Bud Feick was also working, but he traveled to Grand Prairie to assist their officers with bar inspections. With Aller and Chapman assisting the Fort Worth Police Department with a bar check operation, it left only Agents Applewhite and Miller available to handle calls. Aller and Chapman constituted 50% of the available work force on that night. Therefore, any involvement in a joint

operation required supervisory approval. Chapman acknowledged he did not notify a supervisor for approval and Sergeant Parsons stated he did not receive notification by Chapman or Aller about assisting with a bar inspection operation.

Allegation #2

The evidence indicated Agents Aller and Chapman left the special event at 11:00PM, which was earlier than scheduled to leave without approval. They did so because they claimed it was common practice to leave events before they were over to beat the traffic.

Agent Chapman said he remembered other senior agents he has worked with notifying a supervisor before they left a special event.

According to Sergeant Parsons, he requires his agents to follow the instructions on operational plans. In this case, Chapman was required to follow the instructions on the operational plan, which meant he was to remain at the event until Midnight, unless he had approval to leave early. Parsons later contradicted himself when he said it was permissible for Chapman to leave this event at 11:00PM to beat the traffic out because it was scheduled to be over at 11:20PM.

Regardless of Parsons' conflicting positions, policy requires employees to follow reasonable instructions. In this case, there was evidence that Chapman failed to abide by this policy.

Allegation #3

There was evidence Champion participated in a pre-arranged bar inspection operation in his special event uniform without approval.

Allegation #4

There was evidence Chapman failed to follow bar inspection procedures.

Allegation #5

There was evidence Chapman failed to submit a force report detailing the circumstances of the arrests of George Armstrong and Chad Gibson.

Allegation #6

There was evidence Chapman failed to report Chad Gibson's injury.

Allegation #7

On the night of the incident, there was evidence that a significant disruption occurred during the inspection at the Rainbow Lounge. In this case, the disruption can be described as (1) the inspection involved multiple officers and a transport van, (2) officers

detained several patrons for investigation of intoxication and made multiple arrests, and (3) police used force to arrest George Armstrong and Chad Gibson.

Sergeant Terry Parsons

It is alleged Sergeant Terry Parsons:

- (1) Failed to take appropriate action on 06-28-09 after learning Agents Christopher Aller and Jason Chapman participated in a joint operation (bar inspections) in unapproved attire (special event uniform)
- (2) Failed to notify supervisors of notification by Agent Christopher Aller of multiple arrests at limited locations on 06-28-09 during a bar inspection operation with the Fort Worth Police Department
- (3) Failed to ensure a force report was submitted by Agents Christopher Aller and Jason Chapman regarding their involvement in arrests during bar inspections with the Fort Worth Police Department on 06-28-09
- (4) Failed to review the Field Training Officer weekly progress reports of Agent-Trainee Jason Chapman for the first five (5) weeks of Phase 2 (May 27—July 3, 2009)

If true, the above conduct would violate:

- (1) LE 1.00 Roles/Responsibilities (e) 1-8
- (2) LE 1.06 Procedures (b) 2
- (3) LE 4.00 Procedures (e)
- (4) LE 9.00 Roles/Responsibilities (b) 1-5

On Saturday, 06-27-09, the Red Bull X-Fighters Freestyle Motocross Event was scheduled to take place at the Fort Worth Stockyards, located at 149 E. Exchange Avenue. Parsons said he prepared the Operational Plan and submitted it to Lieutenant Gene Anderson for review and approval. The operation would consist of two teams and four agents. The special event uniform was approved for the event. The agents were assigned to work the event from 5:00PM to 12 Midnight.

On the day of the event, Parsons said he met with the four agents at the office at the beginning of their shift (5PM). Agents Chris Aller and Jason Chapman would be one team and Agents Charles Applewhite and Shawn Miller would be the second team.

Parsons said the agents went to eat supper at Mercado on Northeast Drive and IH 35 before making their way to the Stockyards. After supper, Parsons said he returned to the Fort Worth office to take care of some paperwork and telephone calls.

Sometime between 12:30AM and 12:45AM on 06-28-09, Parsons left the office and made his way toward the Stockyards area. He wanted to find out if the special event was still in progress, as well as check on other events in the area. As he drove past the Stockyards, he noticed the event was over.

When questioned about the agent's responsibilities regarding when to leave and whether they needed prior approval, Parsons said the ending time had some flexibility

depending on the size of the crowd or activity taking place. He first said it was okay for the agents to leave this event around 11:00PM if nothing was going on because it was scheduled to be over at 11:20PM. This would allow his agents to beat the crowd out and keep them from being stuck in traffic. However, he later indicated that he expected his agents to follow the instructions on the operational plan, which in this case, required they remain on scene until 12 Midnight. Parsons indicated he put the end time at 12 Midnight to ensure coverage for anything taking place after the event was over (Aller estimated the crowd at 45,000).

Parsons stated the agents can leave an event on their own if it is over, but they have to call him if they are leaving early. Parsons stated he did not receive a call from his agents that night.

After driving around the area for awhile, Parsons made his way to a nearby Taco Bell to visit an officer friend of his that was working an off-duty job.

At approximately 1:45AM, Parsons overheard a radio call for a TABC agent to respond to a bar on North Main Street. He listened to the officer say the bar staff had locked the officers out and wouldn't let them in. Parsons listened for one of his on-duty agents to respond, but never heard anything. This is when Parsons said he telephoned Agent Aller to find out if he heard the request for an agent and was he responding to the call.

Aller told him that he didn't hear the call because he and Chapman were assisting Fort Worth Police Central units on another call. Parsons recalled Aller briefly said something about Fort Worth officers arresting 15 people at a party. Parsons assumed his agents had been called to assist Fort Worth officers at a big party and a lot of people had been arrested.

Aller then told Parsons he should check with Agents Applewhite and Miller because he believed they were responding to a call at a bar for the police department, however, he didn't know if it was the same one.

Parsons then contacted Applewhite and learned he and Miller were responding to a call from Fort Worth officers at a bar on the corner of North Main Street and NE 34th Street. This was the call for assistance that Parsons heard earlier over the police radio.

Parsons then called Miller, who was already in his own unit, to make sure he was on his way to assist Applewhite. Miller confirmed he was and said he was following his partner to the location. Parsons informed Miller he was still in the area and would also respond to the bar to assist.

Parsons arrived first at the bar called the Sombreretes Bar and made contact with a Fort Worth officer who was waiting on a wrecker driver to finish picking up an impounded vehicle. Parsons was provided a case number for the arrest and then gave it to Agent Miller upon his arrival to obtain a report for review.

Parsons realized the manager of the bar was still at the location, so he instructed his agents to enter the bar to conduct an inspection. No violations were observed and Miller spoke briefly with the manager before they left the location.

Everyone headed home and Parsons reported going off-duty at approximately 3:30AM.

Parsons said Aller didn't call back so he assumed Aller was on a routine call to assist the police department and everything was okay. There was no evidence Parsons asked Aller if they were still wearing their special event uniform.

On Sunday, 06-28-09, at approximately 12:45PM, Parsons said he received a telephone call from Sergeant John Busby inquiring about a subject that had been arrested at the Rainbow Lounge early Sunday morning and was transported to the hospital by ambulance. Busby informed him that he received a telephone call from a Fort Worth Captain (Cordell) wanting to know if the subject was in TABC or Fort Worth custody at the time. Parsons told Busby he was on duty the previous night, but he was unaware of anyone being arrested at the Rainbow Lounge by his agents.

Busby informed him that Agents Chris Aller and Jason Chapman apparently worked a bar detail with Fort Worth officers after their special event assignment and a subject had been arrested for Public Intoxication at the Rainbow Lounge. Busby said the subject reportedly fell while in custody and was transported to the hospital by ambulance.

After he ended his conversation with Busby, Parsons said he telephoned Agent Aller to find out if he was at the Rainbow Lounge the previous night and if so, did anything happen while he was there. Aller told him that sometime around 11:00PM (06-27-09), he and Agent Chapman left the special event at the end of the show and met with Sergeant Richard Morris and his officers to conduct follow up inspections of the Rosedale Saloon and Cowboy Palace. He also told Parsons that afterwards, Sergeant Morris asked him to go the Rainbow Lounge with his officers.

Parsons reminded Aller of their conversation the previous night. He thought Aller had been called to assist Fort Worth officers with a party. Parsons recalled Aller responded, "Not exactly." Aller informed him they assisted the police department with follow up inspections.

Parsons acknowledged he "messed up" by not inquiring more about the 15 arrests or how his agents were assisting the police department. Parsons said he should have responded to the scene to check with his agents on the operation and how they were dressed (he last saw them in a special event uniform). If he found they were assisting with a bar check, this would have required approval and it would have triggered notification to Lieutenant Anderson.

Aller went on to inform Parsons that earlier in the week he rode with Officer Michael Marquez because he didn't have a partner. During their shift, they stopped at the Rainbow Lounge to conduct an inspection. Parsons stated his agents can ride with other officers, with approval, when they are scheduled to work alone because there is a rule in the Fort Worth region that agents are not allowed to conduct bar inspections alone after 11:00PM. However, Parsons said this was the first he heard Aller rode with Marquez.

Parsons said Aller informed him that they didn't get to inspect the Rainbow Lounge on Thursday night because Fort Worth officers needed a supervisor present before they could enter the bar and Sergeant Morris was unavailable. Aller said the bar owner

came out to speak to them and he was informed officers were there to conduct an inspection. The owner was eventually told officers would not be inspecting the bar that night because their supervisor was unavailable. The owner welcomed the officers anytime.

Parsons also learned officers made contact with a patron leaving the bar that was intoxicated, but was allowed to return inside the bar to find a way home. It was later that officers would locate and arrest this same intoxicated individual behind the wheel of his car. Aller also informed him the owner of the bar told officers that night that he instructed his employees to make sure intoxicated customers made it safely to their cars. This is why Sergeant Morris asked Aller to assist his officers in returning to the Rainbow Lounge for an inspection.

Parsons also learned Aller made an administrative and criminal case in the early morning hours of 06-26-09 against the Rosedale Saloon for Permitting Consumption during Prohibited Hours. After making the case, Aller informed Parsons that Sergeant Morris asked if he would be available on the night of 06-27-09 for some follow up inspections. According to Parsons, Aller told Sergeant Morris that he would be available after the special event at the Stockyards.

Parsons asked Aller if he had informed him of the bar inspection arrangement with Fort Worth officers and Aller said no. Aller told him he "just didn't think about it." Parsons then asked if they were wearing a special event uniform. Aller apologized and said he knew they are not supposed to make inspections while wearing the special event uniform and realized he should have taken a change of clothes with him to work that night. Again Aller said he "just wasn't thinking."

Parsons said Aller also apologized for the misunderstanding during their conversation the previous night about assisting Fort Worth officers at a party that yielded 15 arrests. Parsons explained to Aller that he needs to know about these arrangements before hand so he can obtain approval to participate in special operations with other agencies. Parsons also reminded Aller that he should have taken a change of clothes to work that night because he was not supposed to be conducting bar inspections while wearing a special event uniform. Parsons explained he could justify a call for assistance at a bar while wearing a special event uniform, but not when the assistance is pre-arranged.

Parsons remembered his agents had assisted Sergeant Morris and his officers in previous months with bar inspections, but it had first come as a request and the assistance was then approved by his supervisors. In this case, his agents didn't request or have approval to assist the police department in this type operation and they did not request or have approval to do so in their special event uniform.

Parsons then inquired about the arrest at the Rainbow Lounge in the early morning hours of 06-28-09. According to Aller, officers entered the bar to conduct an inspection. At some point while inside, Aller claimed someone "groped" Sergeant Morris in the groin. That subject was taken outside and arrested for Public Intoxication.

Parsons learned that while outside, Aller said an officer called for assistance and he and Agent Chapman re-entered the bar, but by the time they reached the scene, there were several officers involved in the arrest. The subject was eventually taken outside.

Aller told Parsons that he was standing in a short hallway inside the bar watching some of the patrons. Aller said he observed two men walking toward his location. Aller recalled the subject that was following reached out and hit another man in the groin area as he said something to him. As these two men walked past Aller, he told Parsons that the second male reached down and also hit him in groin said something to him.

Aller informed Parsons that he reached out to grab the subject and he resisted. Parsons learned Agent Chapman and a Fort Worth officer came to his assistance. They were able to successfully handcuff the obviously intoxicated subject and escorted him outside.

Aller informed Parsons that since he was the victim of the assault, he felt it would be best to separate himself from the subject. It was then that Agent Chapman began to collect information to begin the booking procedure. Aller told him he had to step away from the arrestee to answer his (Parsons) call.

Parsons instructed Aller to prepare something in writing and to e-mail it to him by the end of the day. Parsons then telephoned Agent Chapman about the details of the previous night.

According to Chapman, he and Aller left the special event and later met Fort Worth officers to conduct inspections at two bars on East Rosedale. He said the Fort Worth officers numbered six, along with Sergeant Richard Morris and a transport van. Chapman said they inspected the Cowboy Palace and the Rosedale Saloon. From these two locations, Parsons learned there had been eight persons arrested without a problem.

Chapman told Parsons that Sergeant Morris then asked them to assist his officers with an inspection of the Rainbow Lounge and they agreed. Upon their arrival at the bar, Chapman said he exited his unit and stopped a bouncer from running inside the bar to alert patrons of the presence of officers.

Parsons was told once inside, Agent Aller was hit in the groin by a patron. Chapman stated he and Aller, along with a Fort Worth officer, took the subject into custody. Chapman indicated the subject resisted, but they were able to control him enough to place handcuffs on him before escorting him outside.

Once outside, Parsons learned Chapman was obtaining the subject's information when he started to vomit. Chapman took a step and a half back to avoid the vomit when the subject suddenly collapsed to the pavement. Chapman said he tried to catch the subject, but it happened so quickly that he couldn't get a hold of him fast enough. Chapman said the subject hit his head on the pavement when he fell. Chapman said he immediately yelled out for help and an ambulance was requested. Chapman said the flex-i-cuffs were removed and he stayed with the subject until the ambulance arrived and paramedics took over.

Chapman told Parsons that during the wait for the ambulance, the subject kept apologizing for giving the officers a hard time and he kept thanking Chapman for being

so understanding and helpful. Chapman also recalled the subjected vomited approximately five times while waiting for the ambulance.

Parsons asked Chapman if he heard Aller say anything to him about the pre-arranged bar inspections. Chapman responded he did not. Parsons then instructed Chapman to prepare something in writing about the incident and e-mail it to him by the end of the day.

In summary, Parsons wrote, "I was not aware of any pre-arrangement that Agent Chris Aller had made with Fort Worth PD Sergeant Richard Morris for Agents Chris Aller and Jason Chapman to assist him and his officers with any bar inspections on the night of June 27, 2009 after the Special Event at the Stockyards. At the time when I spoke with Agent Chris Aller about the other Fort Worth PD Sergeant looking for a TABC Agent to respond to a bar on North Main Street, from my brief conversation with Agent Chris Aller I was under the impression that Agent Chris Aller and Agent Jason Chapman had responded to a call to assist their officers with a party in which fifteen people had been arrested by Fort Worth PD."

In addition, Parsons wrote, "I was not aware until after the incident that Agents Chris Aller and Jason Chapman made these bar inspections while still wearing their Special Event Attire." Parsons said it wasn't until he received the call from Sergeant Busby that he became aware of any of the details of the bar inspections in special event uniform and the injury to a person under arrest.

Parsons acknowledged he didn't immediately notify his supervisors of the information learned from Agents Aller and Chapman because he believed Sergeant Busby had notified Lieutenant Anderson. Parsons also acknowledged failing to require a force report from Aller and Chapman regarding the arrests made at the Rainbow Lounge.

Regarding the Field Training Officer program, Parsons acknowledged he got behind on reviewing the weekly reports of Agent-Trainee Chapman's training program. When asked how far behind he was, Parsons responded, "It turns out I was actually five weeks back." He said, "...that was my fault..."

A review of the first four weeks of Phase 2 that began on 05-27-09 indicated Parsons reviewed the weekly reports with Agent Chapman on 07-3-09, which is the day Lieutenant Anderson asked to see his reviews.

On the Daily Observation Report for 06-27-09 (week five), there was a notation that read, "FTO and Trainee failed to complete some documenting paperwork after the night was over for the end of the week." It was signed by Agents Aller and Chapman. There was no indication of a supervisor review at the end of week five.

Parsons ended with, "...I accept responsibility. I made a mistake and I know it's gonna cost me..."

In his rebuttal dated 07-24-09, Parsons responded only to allegation #1. He said he took action as soon as he found out about the incident. He indicated that he was not aware of the actions of Aller and Chapman until the next day, when Sergeant Busby telephoned him. He then contacted Aller and Chapman for details and then contacted

Sergeant Busby with his findings. Busby informed him that he was in contact with Lieutenant Anderson and would contact Captain Charlie Cloud for him. Parsons said he thanked Busby for handling it for him. Parsons recalled a call from Captain Cloud to be in his office on Monday morning to answer questions.

Classification

Sustained

Evaluation

There was evidence to support a sustained classification on all counts.

Allegation #1

Sergeant Parsons acknowledged he “messed up” when notified by Agent Aller of the multiple arrests while assisting Fort Worth officers. He failed to inquire about the circumstances of the arrests or respond to the scene.

Furthermore, on Sunday afternoon, after learning of the pre-arranged bar inspections in special event uniform, Parsons failed to notify Lieutenant Anderson or Captain Cloud of his findings. Instead, he allowed Sergeant Busby to communicate with Anderson and Cloud about the details.

Allegation #2

There was evidence Parsons failed to notify Lieutenant Anderson or Captain Cloud of the notification by Agent Aller of multiple arrests during the bar inspection operation.

Allegation #3

There was evidence Parsons failed to ensure Agents Aller and Chapman submitted a force report detailing their involvement in the arrests of George Armstrong and Chad Gibson.

Allegation #4

Parsons acknowledged he failed to review Agent-Trainee Chapman’s FTO weekly reports for the first five weeks of Phase 2 that began on 05-27-09. The evidence revealed he reviewed the reports of the first four weeks with Agent Chapman on 07-03-09, but never reviewed week five.

ADDITIONAL

Sergeant John Busby

Sergeant Busby stated he received a call from Captain Cordell of the Fort Worth Police Department at approximately 12:30PM on 06-28-09. Cordell informed Busby that it was important that TABC be notified of the media attention the inspection at the Rainbow Lounge was receiving. He said Agent Aller assisted Fort Worth officers with inspecting

some clubs, including the Rainbow Lounge at 651 S. Jennings. Cordell indicated several intoxicated patrons were arrested.

Cordell told Busby that during the inspection one of the patrons grabbed Agent Aller by the testicles. The patron was arrested by Agent Aller and charges were filed by the police department. According to Cordell, at some point, the arrested person fell and hit his head. He was released for medical attention.

Cordell advised the gay and lesbian community is upset because they believe the Rainbow Lounge was targeted and it was a raid on them on the eve of the anniversary of the "Stonewall Inn Raid" that took place in New York on June 28, 1969. He advised the gay and lesbian community is planning a protest and believed there would be a lot of media attention.

After ending his conversation with Cordell, Busby telephoned Lieutenant Anderson and left a message at his home and on his cell phone. Busby then called Captain Charlie Cloud and left a message on his cell phone. Busby then telephoned Sergeant Parsons to obtain some information.

Parsons was not aware of any problems at the Rainbow Lounge. He advised Busby that he would contact Agent Aller and get back to him with some information. Captain Cloud called and Busby informed him of Cordell's call. Lieutenant Anderson called and Busby informed him of Cordell's information.

Parsons called back with Aller's information. Busby advised Parsons to make sure Aller provided a written report of the incident. Busby then contacted Lieutenant Anderson to advise him of Aller's information.

Agent Shawn Miller

Agent Miller said everyone involved in the special event went to supper before proceeding to the Stockyards. He recalled first having contact with Sergeant Parsons after they arrived at the restaurant. After leaving the special event at the Stockyards at approximately 11:00PM, Miller and Agent Charles Applewhite made their way to a nearby convenience store to get something to drink. During a conversation with Agent Aller, Miller learned Aller and his partner, Agent Jason Chapman, were going to assist Fort Worth officers with some bar inspections on the south side of the city. Miller asked if his assistance was needed and Aller said their assistance was not needed.

Agent Charles Applewhite

Agent Applewhite said the involved agents went to supper before proceeding to the Stockyards. He remembered first having contact with Sergeant Parsons at the restaurant. He left the special event at approximately 11:00PM and made his way to a nearby convenience store to get something to drink. Applewhite learned from Aller that he and Agent Jason Chapman were going to assist Fort Worth officers with an operation.

On Sunday, 06-28-09, Applewhite was watching the 5:00PM news on Channel 5 when he saw details of the bar inspection at the Rainbow Lounge. He recognized Aller in a

photograph. He contacted Aller to let him know of the news report and learned Aller was already aware of the report. Applewhite said nothing else was discussed about the incident.

Lieutenant Gene Anderson

Anderson said on 07-03-09, he spoke to Parsons about the training of Agent Chapman. Anderson asked to specifically review Chapman's training and progress reports during the Field Training Program.

Parson advised that he was a couple of weeks behind in reviewing Chapman's progress, but would review the late reports and make them available to him afterwards. Anderson reminded him to accurately reflect the date the weekly reports were reviewed.

Approximately 30 minutes passed and Anderson said he still had not received the reports from Parsons, so he made his way to his office to again request the documents. As he entered Parsons' office, he noticed Agent Chapman and Parson were reviewing the reports. Anderson said Parsons informed him it was taking some time to complete the reviews because he found that he was more than a "couple of weeks" behind.

Anderson asked how far back he was and Parsons answered that he was about five weeks delinquent with the reviews (No Weekly Supervisor Review conducted during the first five weeks of Phase 2, May 27, 2009 --- July 3, 2009).

Anderson instructed Chapman to leave the room and then asked Parsons how this could happen. Parsons said he got behind and simply forgot to complete the reviews. Anderson reminded Parsons that he was required to meet with the trainee each week to review their progress report. He then instructed Parsons to complete his reviews.

Fort Worth Police Department Reports

According to Fort Worth Incident Report (09-71930), on 06-28-09, at about 12:15AM, Sergeant R. Morris and TABC Agent Christopher Aller led a bar check at the Rosedale Saloon and Cowboy Palace. Also participating in the check were the following officers: Jensen, Marquez, Ricks, Back, Gober, Moss and Agent Chapman. These two locations are known to both Fort Worth PD and TABC to routinely over-serve alcohol to patrons and to serve to patrons already intoxicated. A total of nine persons were arrested for Public Intoxication.

After the arrests were completed and the subjects had been loaded, all officers relocated to a parking lot at 1000 S. Jennings to complete paperwork and other administrative tasks.

Later at the jail, two individuals were found to have baggies of cocaine in their possession.

According to Fort Worth Incident Report (09-71988), on 06-26-09, at 3:30PM, Sergeant Morris said the reported owner of the Rainbow Lounge telephoned the office to find out

if everything was okay at his club because officers were in his parking lot the previous night. Morris said he was unaware of any problem, but he would check with his officers. The owner invited Morris and his officers to come by the club anytime because they were always welcomed guests. Morris said he informed the owner that he had a scheduled meeting with TABC and his officers to check local bars, and that officers would come by and check his club on Saturday, 06-27-09. The owner asked Morris if he needed to do anything to prepare, and Morris told him just to see that his staff is not over-serving alcohol to patrons.

Morris later found out the arrest for Case 09-71128 (Goode) was linked to the Rainbow Lounge for over-serving patrons.

06-27-09, Sergeant Vence Autry told Sergeant Morris that the reported owner of the Rainbow Lounge contacted him to ask if everything was okay at his club because officers were in his parking lot the previous night. Sergeant Autry said he was unaware of a problem because he is on day shift. He did tell the owner that one of the biggest problems is the over-serving of alcohol. The owner told Sergeant Autry, "Well, when they are drunk, we always walk them to their car."

Records indicated a bar check was conducted at the Rainbow Lounge with TABC at approximately 1:30AM on 06-28-09. There were six patrons arrested for Public Intoxication. One of the arrested individuals, Chad Gibson, was released to MEDSTAR to be taken to JPS for treatment of alcohol poisoning and a head injury from falling while vomiting.