

Dickson City Police Department Detail

Print Date/Time: 05/19/2008 00:14
Login ID: GALLAGHERK
Case Number: 2008-00002692

Dickson City Police Dept
ORI Number: PA0350800

case details

On 9, May2008 at 1829 hours officers received a dispatch to Old country Buffet restaurant on Commerce Blvd, for a report of two males in the restaurant with guns on their sides. The caller stated that the males were not doing anything wrong but the guns were on their sides visible and there were no badges displayed and felt this was wrong with children running around and requested police to check on it.

During response we received another dispatch similar in nature, also during response comm center advised us that another caller concerned about the males with guns would meet us in the parking lot and gave his name and description of his vehicle. Upon arrival Ofc Mariano met with the male caller who stated that there were persons in the restaurant with guns on their sides and that he and other people were frightened. He gave Ofc Mariano a description of the males and where they were located in the restaurant.

Ofc. Mariano and I (Gallagher) entered the restaurant and observed several males sitting at tables with what appeared to be their families. The above mentioned males had firearms (handguns) in holsters on their sides. Ofc Mariano approached one table while I went to another. I observed a male sitting at this table feeding his infant; the male had a handgun in a holster on his right side. I informed the male that we were called to the restaurant because people were concerned about the guns that he and other males had on their sides. I saw that Ofc Mariano had asked the males at the table he was speaking with to go outside with him so that we may speak in private. I asked this male if someone was with him that may be able to watch the baby so that we could join the group. He stated his wife would be right back. Once she returned to the table I informed her that we just wanted to speak to the group away from the rest of the restaurant patrons.

Once in the vestibule (exit) Ofc Mariano informed the group the reason we were called to the restaurant was that patrons of the restaurant were concerned about the guns that the males had openly displayed on their sides. Ofc. Mariano asked if the males also had concealed weapons about their person and several males several stated that they were. Ofc Mariano asked that persons who were concealing a weapon to group together on one side so that we may check that they have concealed weapons permits (license to carry permit). We then asked for concealed weapons permits from this group and asked for id from all others. We then observed that a female was videotaping the incident and she was asked to turn it off. A male later identified as Richard Banks stated "are you asking or demanding". I again asked for the video camera to be shut off. I called for more units to assist us at this time.

All group members except for one male later identified as Richard Banks were compliant with providing License to carry permits (concealed weapons permits) and identification. Mr. Banks was one of the males that had stated that he was also concealing a weapon. Mr. Banks stated that he would not provide us with identification and asked if he was under arrest. I informed him that he was not under arrest but we were investigating an incident where people had called and were scared about the weapons which can be disorderly conduct. Ofc Mariano again asked him for his id and he again stated he would not give paper id but he would verbally identify himself. I then explained that if he didn't provide id and license to carry (concealed weapons permit) to law enforcement he would be arrested for failure to provide id and proof of license to carry (concealed weapons permit) and disorderly conduct. He again stated that he would not provide id that it was within his rights not to. I then asked the male to turn around and place his hands on the wall he then stated that he would verbally identify himself. I placed him into custody and for officer safety took a handgun from his right side holstered and asked where his other firearm was. He stated that he had a weapon on his left ankle. I also removed that weapon from the holster and walked him out to my patrol vehicle. I then placed the weapons on my front seat and asked the male if there were any other weapons on his person, he stated my pocket knife. I observed a pocket knife clipped to each front pocket, I removed them as well as an extra magazine, cell phone and wallet. Another officer arrived and I asked if they would unload the firearms in my front seat. I placed the male in the rear of my patrol car. The male again asked if he was being arrested, I replied that he was under arrest for disorderly conduct and failure to provide id and his concealed weapons permit. I opened the males

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wallet for his identification and retrieved a driver license from his wallet; I then placed all personal items into a bag. I then requested comm center run oln [REDACTED], Richard H Banks.

I then returned to Ofc Mariano and other officers from Throop and Blakely police. Ofc Rapoch contacted the Chief of police and let him know of the situation. Chief advised us to run identification and permits on all parties. He further advised us that we may run serial numbers of the weapons to be sure the weapons belonged to the carriers. I then ran Roger Mccarren oln [REDACTED] I asked Mr. Mccarren to unload his weapon so that I could obtain the serial number to run. Mr Mccarren unloaded his weapon I asked for a license to carry permit where Mr Mccarren informed me that he was open carrying and did not need a permit. I asked that he remain where he was for a moment and took the weapon with me to another officer to ask about the open carry law. I was told that as long as it was carried without being concealed that he could carry without a license to carry it if it was registered to him. I wrote down the serial number and returned the weapon to Mr Mccarren. I ran the serial number [REDACTED] Desert Eagle which came back registered to Darcie Mccarren. Upon checking with the chief of police I was advised that if it was not registered to him that he may not carry it and could release it to the registered owner Darcie if on scene, if she was not then I was to take the weapon and the owner would have to come to Police Headquarters to retrieve it. I went back into the restaurant where Mr Mccarren was sitting and informed him of such, the woman sitting next to him stated that she was his wife Darcie and had "gifted" the gun to him. I asked them to come back outside; so that I could speak to them the restaurant was extremely crowded. Once outside I again explained that the serial number on the weapon he was carrying was registered to his wife and that only she may carry the weapon. Mr. Mccarren stated that you can "gift" a weapon between husband and wife. I asked Mr Mccarren to turn to the wall for officer safety so that I may retrieve the weapon from the holster. I retrieved the weapon and handed it to another officer who unloaded it and placed it into Ofc Marianos car. Darcie returned to the restaurant to get her car keys so that she may get her id from her purse in her vehicle. I we went with her to her vehicle to and she provided me with her id, I then released the weapon registered to her. She then locked it unloaded in her vehicle.

Comm. Center advised me to call them in reference to the two weapons of Mr. Banks and was informed that the weapon he had concealed on his ankle a 9mm para serial number [REDACTED] was not registered and the other weapon that he had on his right side was registered to Mr Banks. I then received a call from another officer that they had spoken to the ADA and he was requesting to speak with me. I returned a call to ADA Kolcharno and informed him of the situation. He stated that he had just been reading the latest case laws after speaking with the other officer. He stated that a person cannot carry a firearm that is registered to someone else. I informed him of the 9mm of Mr Banks that it was not registered and the ADA informed me that he cannot carry a firearm that is not registered. He also approved the charge of Disorderly Conduct and would look into the failure to provide id and concealed weapons permit, but stated that I should release Mr Banks for the evening and file the charges. I asked ADA Kolcharno again about the weapon and he stated to take the weapon due to it not being registered. I then released Mr Banks and informed him of the above. Mr Banks stated that he is a federal firearms dealer and does not have to register a weapon. Not familiar with this I asked him to explain more about it and I was handed pamphlets by other group members. I asked if he had id showing that he was a federal firearms dealer and he stated that he did not. I informed him that I was advised to take the weapon and that he could speak to the Chief of police about it on Monday. Mr Banks informed me that if I took his weapon from him that he would file a lawsuit. Mr Banks requested a receipt for the weapon, I informed him that I do not have receipts with me on duty but if he would like to come to the station I would be more then happy to provide him with one. He then asked for a handwritten one with my name, badge number, serial number, make, model and caliber of his weapon. Which I provided to him on tablet paper. I secured the weapon in my vehicle and went to headquarters to place a property/evidence tag on it and lock it up. I also called the chief of police to update him and advise him that Mr. Banks would be in on Monday for his weapon and that I asked Mr. Banks to bring id showing he was a federal firearms dealer.

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I then placed a call to the first 911 caller and asked about the call. She stated that she and her mother were eating dinner when they observed two males with guns on their sides. She stated that she was "offended" by this that "one male was at the buffet table with just a nylon strap over his gun and there were kids running around and some of them pointed at it" She felt as though it was strange and thought about all the "crazy" people in the news lately. She also stated that her mothers glances were noticed by one male who stated to her "don't worry honey you are in the safest place in Dickson city right now." Which the caller stated really upset her mother and they left the restaurant before finishing their meals because they felt that this was not right and were scared.

On Monday May 12, 2008 I spoke to ADA Kolcharno about this incident again. He then advised me not to file the charges for disorderly conduct.

I spoke with the Chief of Police who advised me of the same.

I also listened to a saved message on the police station answering machine from May 9, 2008 from [REDACTED] who identified himself as one of the managers at the Old Country Buffet. He wanted to know what the law was on guns, on whether or not they had to be concealed because he had a few customers in the restaurant with guns on their sides and some other customers were complaining.

No charges to be filed at this time. Clear. CLOSED.